
Module 1

Introduction to the gTLD Application Process

This module gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required, and when and how to submit them.

This module also describes the conditions associated with particular types of applications, and the stages of the application life cycle.

~~For more about the origins, history and details of ICANN's policies on new gTLDs, please see~~
~~<http://gnso.icann.org/issues/new-gtlds/>~~

A glossary of relevant terms is included ~~withat~~ the Draftend of this Applicant Guidebook ~~(Draft RFP)~~.

Prospective applicants are encouraged to read and become familiar with the ~~content~~contents of this entire module, as well as the others, before starting the application process to make sure they understand what is required of them and what they can expect at each stage of the application evaluation process.

~~For the complete set of the supporting documentation and more about the origins, history and details of the policy development background to the New gTLD Program, please see~~ <http://gnso.icann.org/issues/new-gtlds/>.

~~This Applicant Guidebook is the implementation of Board-approved consensus policy concerning the introduction of new gTLDs, and has been revised extensively via public comment and consultation over a two-year period.~~

1.1 Application Life Cycle and Timelines

This section provides a description of the stages that an application passes through once it is submitted. Some stages will occur for all applications submitted; others will only occur in specific circumstances. Applicants should be aware of the stages and steps involved in processing applications received.

1.1.1 Application Submission Dates

The application submission period opens at [time] UTC [date].

The application submission period closes at [time] UTC [date].

~~Applications may be submitted electronically through ICANN's online application system.~~

To receive consideration, all applications must be submitted electronically through the online application system by the close of the application submission period.

An application will not be considered, in the absence of exceptional circumstances, if:

- It is received after the ~~due date~~ close of the application submission period.
- The application form is incomplete (either the questions have not been fully answered or required supporting documents are missing). Applicants will not ordinarily be permitted to supplement their applications after submission.
- The evaluation fee has not been paid by the deadline. Refer to Section 1.5 for fee information.

ICANN has gone to significant lengths to ensure that the online application system will be available for the duration of the application submission period. In the event that the system is not available, ICANN will provide alternative instructions for submitting applications on its website.

1.1.2 Application Processing Stages

This subsection provides an overview of the stages involved in processing an application submitted to ICANN. In Figure 1-1, the shortest and most straightforward path is marked with bold lines, while certain stages that may or may not ~~apply~~ be applicable in any given case are also shown. A brief description of each stage follows.

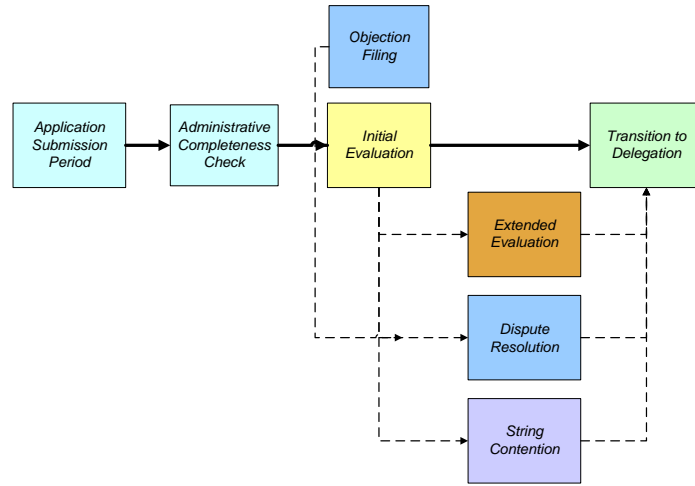


Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

1.1.2.1 Application Submission Period

At the time the application submission period opens, ~~applicants~~those wishing to ~~apply for a submit~~ new gTLD applications can become registered users of the ~~online application system~~TLD Application System (TAS).

~~Through the application system, applicants~~After completing the registration, applicants will supply a deposit for each requested application slot (see section 1.4), after which they will receive access to the full application form. ~~To complete the application, users~~ will answer a series of questions to provide general information, demonstrate financial capability, and demonstrate technical and operational capability. The supporting documents listed in subsection 1.2.~~32~~ of this module must also be submitted through the application system~~– as instructed in the relevant questions.~~

Applicants must also submit their evaluation fees during this period. Refer to Section 1.5 of this module for additional information about fees and payments.

Following the close of the application submission period, ICANN will provide applicants ~~can continue to use the application system as a resource to track~~ with periodic status updates on the progress of their applications, ~~although they may receive communications from ICANN through other means.~~

1.1.2.2 Administrative Completeness Check

Immediately following the close of the application submission period, ICANN will check all applications for completeness. This check ensures that:

- All mandatory questions are answered ~~(except those questions identified as optional);~~
- Required supporting documents are provided in the proper format(s); and
- The evaluation fees have been received.

ICANN will post ~~a list of all~~ applications considered complete and ready for evaluation as soon as ~~practical~~ practicable after the close of the application submission period. ~~The status~~ Certain questions relate to internal processes or information for each applicant responses to these questions will not be posted. Each question is labeled in the application will also be form as to whether the information will be posted. See the full set of questions in the attachment to Module 2.

~~The administrative completeness check is expected to be completed for all applications in a period of approximately 4 weeks, subject to extension depending on volume. In the event that all applications cannot be processed within a 4-week period, ICANN will post updated in the online application system. process information and an estimated timeline.~~

1.1.2.3 Initial Evaluation

Initial Evaluation will begin immediately after the administrative completeness check concludes. All complete applications will be reviewed during Initial Evaluation. At the beginning of this period, background screening on the applying entity and the individuals named in the application will be conducted. Applications must pass this step before the Initial Evaluation reviews are carried out.

There are two main elements of the Initial Evaluation:

- 1. String reviews (concerning the applied-for gTLD string) ~~and~~. String reviews include a determination that the applied-for gTLD string is not likely to cause security or stability problems in the DNS, including problems caused by similarity to existing TLDs or reserved names.
- 2. Applicant reviews (concerning the entity applying for the gTLD and its proposed registry services). Applicant reviews include a determination of whether the applicant has the requisite technical, operational, and financial capability to operate a registry.

~~Applicant reviews include a determination of whether the applicant has the requisite technical and financial capability to operate a registry.~~

- ~~• Panels of independent evaluators will perform these reviews based on the information provided by each applicant in its responses to the application form.~~
- ~~• There may be one round of questions and answers between the applicant and evaluators to clarify information contained in the application. Refer to Module 2 for further details on the evaluation process.~~

~~Evaluators will report whether the applicant passes or fails each of the parts of the Initial Evaluation. These reports will be available in the online application system.~~

~~At~~By the conclusion of the Initial Evaluation period, ICANN will post ~~a~~-notice of all ~~applications that have passed the~~ Initial Evaluation results. Depending on the volume of applications received, ~~ICANN may post~~ such notices may be posted in batches over the course of the Initial Evaluation period.

The Initial Evaluation is expected to be completed for all applications in a period of approximately 5 months. If the volume of applications received significantly exceeds 500, applications will be processed in batches and the 5-month timeline will not be met. The first batch will be limited to 500 applications and subsequent batches will be limited to 400 to account for capacity limitations due to managing extended evaluation, string contention, and other processes associated with each previous batch.

A process external to the application submission process will be employed to establish evaluation priority. This process will be based on an online ticketing system or other objective criteria.

If batching is required, the String Similarity review will be completed on all applications prior to the establishment of evaluation priority batches. For applications identified as part of a contention set, the entire contention set will be kept together in the same batch.

If batches are established, ICANN will post updated process information and an estimated timeline.

Note that the processing constraints will limit delegation rates to a steady state even in the event of an extremely high volume of applications. The annual delegation rate will not exceed 1,000 per year in any case, no matter how many applications are received.¹

1.1.2.4 Objection Filing

Formal objections to applications can be filed on any of four enumerated grounds, by parties with standing to object. The objection filing period will open after ICANN posts the list of complete applications as described in paragraph 1.1.2.2. ~~Objectors will file directly with dispute resolution service providers (DRSPs). Refer to Module 3, Dispute Resolution Procedures, for further details.~~ subsection 1.1.2.2, and will last for approximately 5 ½ months.

Objectors must file such formal objections directly with dispute resolution service providers (DRSPs), not with ICANN. The objection filing ~~phase~~period will close following the end of the Initial Evaluation period (refer to ~~paragraph~~subsection 1.1.2.3), with a two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period. Objections that have been filed during the objection filing ~~phase~~period will be addressed in the dispute resolution ~~phase~~stage, which is outlined in ~~paragraph~~subsection 1.1.2.6 and discussed in detail in Module 3.

All applicants should be aware that third parties have the opportunity to file objections to any application during ~~this~~the objection filing period. Applicants whose applications are the subject of a formal objection will have an opportunity to file a response according to the dispute

¹ See the paper "Delegation Rate Scenarios for New gTLDs" at <http://icann.org/en/topics/new-gtlds/delegation-rate-scenarios-new-gtlds-06oct10-en.pdf> for additional discussion.

resolution service provider's rules and procedures ~~(refer to Module 3).~~

An applicant wishing to file a formal objection to another application that has been submitted would do so within the objection filing period, following the objection filing procedures in Module 3.

Applicants are encouraged to identify possible regional, cultural, property interests, or other sensitivities regarding TLD strings and their uses before applying and, where possible, consult with interested parties to mitigate any concerns in advance.

1.1.2.5 Public Comment

Public comment mechanisms are part of ICANN's policy development, implementation, and operational processes. As a private-public partnership, ICANN is dedicated to: preserving the operational security and stability of the Internet, promoting competition, achieving broad representation of global Internet communities, and developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

In the new gTLD application process, all applicants should be aware that public comment fora are a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. Anyone may submit a comment in a public comment forum.

ICANN will open a public comment period at the time applications are publicly posted on ICANN's website (refer to subsection 1.1.2.2), which will remain open for 45 calendar days. This period will allow time for the community to review and submit comments on posted application materials, and will allow for subsequent consolidation of the received comments, distribution to the panels performing reviews, and analysis and consideration of the comments by the evaluators within the 5-month timeframe allotted for Initial Evaluation. This public comment period is subject to extension, should the volume of applications or other circumstances require. **To be considered by evaluators, comments must be received in the designated public comment forum within the stated time period.**

Comments received during the public comment period will be tagged to a specific application. Evaluators will

perform due diligence on the comments (i.e., determine their relevance to the evaluation, verify the accuracy of claims, analyze meaningfulness of references cited) and take the information provided in these comments into consideration. Consideration of the applicability of the information submitted through public comments will be included in the evaluators' reports.

A general public comment forum will remain open through all stages of the evaluation process, to provide a means for the public to bring forward any other relevant information or issues.

A distinction should be made between public comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside those evaluation criteria. The formal objection process was created to allow a full and fair consideration of objections based on certain limited grounds outside ICANN's evaluation of applications on their merits. Public comments associated with formal objections will not be considered by panels during Initial Evaluation; however, they may be subsequently considered by an expert panel during a dispute resolution proceeding (see subsection 1.1.2.7).

Governments may provide a notification using the public comment forum to communicate concerns relating to national laws. However, a government's notification of concern will not in itself be deemed to be a formal objection. A notification by a government does not constitute grounds for rejection of a gTLD application.

Governments may also communicate directly to applicants using the contact information posted in the application, e.g., to send a notification that an applied-for gTLD string might be contrary to a national law, and to try to address any concerns with the applicant.

As noted above, applicants are encouraged to identify potential sensitivities in advance and work with the relevant parties to mitigate concerns related to the application.

1.1.2.6 Extended Evaluation

Extended Evaluation ~~applies~~ is available only to certain applicants that do not pass Initial Evaluation.

Applicants failing certain elements of the Initial Evaluation can request an Extended Evaluation. If the applicant does not pass Initial Evaluation and does not expressly request

an Extended Evaluation, the application will proceed no further. The Extended Evaluation period allows for ~~one an~~ additional ~~round exchange~~ of ~~questions and answers~~ information between the applicant and evaluators to clarify information contained in the application. The reviews performed in Extended Evaluation do not introduce additional evaluation criteria.

An application may be required to enter an Extended Evaluation ~~may also be required if the applied for gTLD string or~~ one or more proposed registry services raise technical issues that might adversely affect the security ~~and/or~~ stability of the DNS. The Extended Evaluation period provides a time frame for these issues to be investigated. Applicants will be informed if such ~~reviews area~~ review is required ~~at by~~ the end of the Initial Evaluation period. ~~Evaluators and any applicable experts consulted will communicate their conclusions at the end of the Extended Evaluation period. These reports will be available in the online application system.~~

Evaluators and any applicable experts consulted will communicate the conclusions resulting from the additional review by the end of the Extended Evaluation period.

At the conclusion of the Extended Evaluation period, ICANN will post ~~all evaluators~~ summary reports, by panel, from the Initial and Extended Evaluation periods.

If an application passes the Extended Evaluation, it can then proceed to the next relevant stage. If the application does not pass the Extended Evaluation, it will proceed no further.

The Extended Evaluation is expected to be completed for all applications in a period of approximately 5 months, though this timeframe could be increased based on volume. In this event, ICANN will post updated process information and an estimated timeline.

1.1.2. ~~67~~ Dispute Resolution

Dispute resolution applies only to applicants ~~that whose~~ applications are the subject of a formal objection.

Where formal objections are filed and filing fees paid during the objection filing ~~phase period, independent~~ dispute resolution service providers (DRSPs) will initiate and conclude proceedings based on the objections received. The formal objection procedure exists to provide a path for those who wish to object to an application that has been ~~received by submitted to~~ ICANN. Dispute resolution service

providers ~~provide~~serve as the fora to adjudicate the proceedings based on the subject matter and the needed expertise. Consolidation of objections filed will occur where appropriate, at the discretion of the DRSP.

Public comments may also be relevant to one or more objection grounds. (Refer to Module 3, Dispute Resolution Procedures, for the objection grounds.)

The DRSPs will have access to all public comments received, and will have discretion to consider them.

As a result of ~~the~~a dispute resolution proceeding, either the applicant will prevail (in which case the application can proceed to the next relevant stage), or the objector will prevail (in which case either the application will proceed no further or the application will be bound to a contention resolution procedure). ~~Refer~~In the event of multiple objections, an applicant must prevail in all dispute resolution proceedings concerning the application to Module 3, Objection and Dispute Resolution, for detailed information~~proceed to the next relevant stage.~~ Applicants will be notified by the ~~Dispute Resolution Service Provider~~DRSP(s) of the results of dispute resolution proceedings. ~~The online application system will also be updated with these results.~~

Dispute resolution proceedings, where applicable, are expected to be completed for all applications within approximately a 5-month time frame. In the event that volume is such that this timeframe cannot be accommodated, ICANN will work with the dispute resolution service providers to create processing procedures and post updated timeline information.

1.1.2.78 String Contention

String contention applies only when there is more than one qualified ~~applicant~~application for the same or similar gTLD strings.

String contention refers to the scenario in which there is more than one qualified ~~applicant~~application for the ~~same~~identical gTLD string or for ~~gTLDs that are~~similar gTLD strings. In this Applicant Guidebook, "similar" means strings so similar that they create a probability of ~~detrimental~~ user confusion if more than one of the strings is delegated. ~~ICANN will resolve cases of string contention either through comparative evaluation or through an alternative mechanism for efficient resolution of string contention into the root zone.~~

Applicants are encouraged to resolve string contention cases among themselves prior to the string contention resolution stage. In the absence of resolution by the contending applicants, string contention cases are resolved either through a community priority evaluation (if a community-based applicant elects it) or through an auction.

In the event of contention between applied-for gTLD strings that represent geographical names, the parties may be asked~~required~~ to follow a different process to resolve the contention. See subsection 2.2.1.4 of Module 2 for more information.

Groups of applied-for strings that are either identical or confusingly similar are called contention sets. All applicants should be aware that if an application is identified as being part of a contention set, string contention resolution procedures will not begin until all applications in the contention set have completed all aspects of evaluation, including dispute resolution, if applicable.

To illustrate, as shown in Figure 1-2, Applicants A, B, and C all apply for .EXAMPLE and are identified as a contention set. Applicants A and C pass Initial Evaluation, but Applicant B does not. Applicant B elects~~requests~~ Extended Evaluation. A third party files an objection to Applicant C's application, and Applicant C enters the dispute resolution proceeding~~process~~. Applicant A must wait to see whether Applicants B and C successfully complete the Extended Evaluation and dispute resolution phases, respectively, before it can proceed to the string contention resolution stage. In this example, Applicant B passes the Extended Evaluation, but Applicant C does not prevail in the dispute resolution proceeding. String contention resolution then proceeds between Applicants A and B.

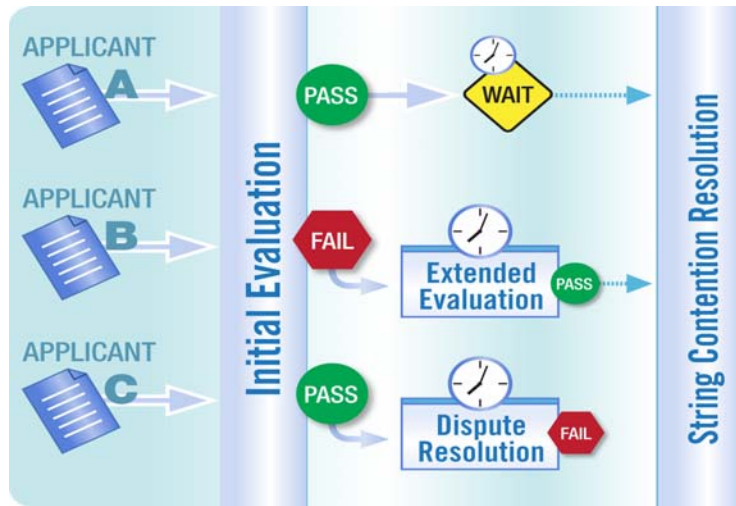


Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

Applicants prevailing in a string contention resolution procedure will proceed toward delegation of ~~applied for~~ gTLD strings. The online application system will be updated with the resolution of the string contention procedures. the applied-for gTLDs.

In the event of a community priority evaluation (see Module 4, String Contention Procedures), ICANN will provide the comments received during the public comment period to the evaluators with instructions to take the relevant information into account in reaching their conclusions.

String contention resolution for a contention set is estimated to take from 2.5 to 6 months to complete. The time required will vary per case because some contention cases may be resolved in either a community priority evaluation or an auction, while others may require both processes.

1.1.2.89 Transition to Delegation

Applicants ~~that~~ successfully ~~complete~~ completing all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD ~~string~~ into the root zone. These steps include execution of a registry agreement with ICANN and completion of a pre-delegation technical test to validate information provided in the application.

Following execution of a registry agreement, the prospective registry operator must complete technical set-

up and show satisfactory performance on a set of technical ~~check~~tests before delegation of the gTLD into the root zone: may be initiated. If the ~~initial start up pre-~~delegation testing requirements are not satisfied so that the gTLD can be delegated into the root zone within the time frame specified in the registry agreement, ICANN may in its sole and absolute discretion elect to terminate the registry agreement.

Once all of these steps have been successfully completed, the applicant is eligible for delegation of its applied-for gTLD ~~string~~ into the DNS root zone.

~~1.1.3 Accounting for Public Comment in the Evaluation of Applications once the New gTLD Process is Launched~~

~~Public comment mechanisms are part of ICANN's policy development and implementation processes. As a private-public partnership, ICANN is dedicated to preserving the operational security and stability of the Internet, to promoting competition, to achieving broad representation of global Internet communities, and to developing policy appropriate to its mission through bottom up, consensus-based processes. It is expected that the transition to delegation steps can be completed in approximately 2 months, though this could take more time depending on the applicant's level of preparedness for the pre-delegation testing and the volume of applications undergoing these steps concurrently.~~

1.1.3 Lifecycle Timelines

Based on the estimates for each stage described in this section, the lifecycle for a straightforward application could be approximately 8 months, as follows:

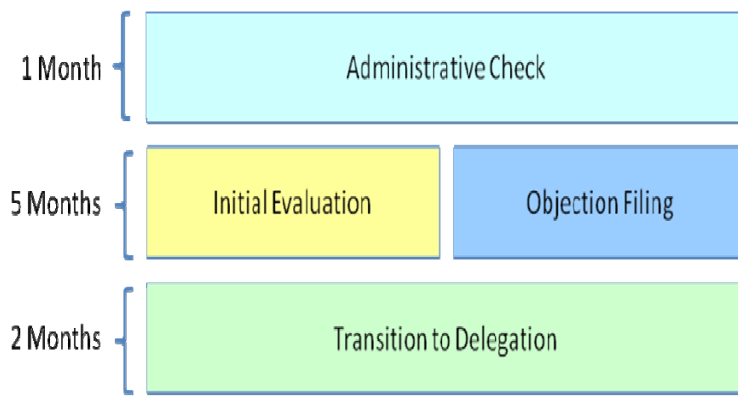


Figure 1-3 – A straightforward application could have an approximate 8-month lifecycle.

The lifecycle for a highly complex application could be much longer, such as 19 months in the example below:

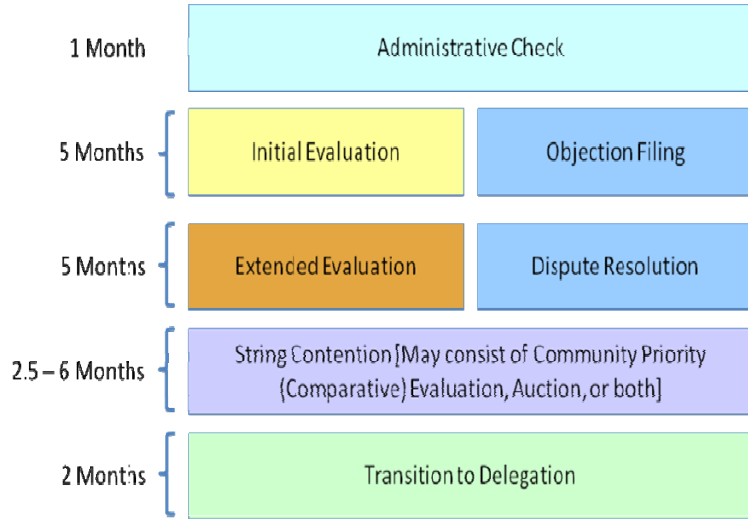


Figure 1-4 – A complex application could have an approximate 19-month lifecycle.

1.1.4 Posting Periods

The results of application reviews will be made available to the public at various stages in the process, as shown below.

Period	Posting Content
<u>End of Administrative Check</u>	Public portions of all applications that have passed the Administrative Completeness Check.
<u>During Initial Evaluation</u>	Status updates for applications withdrawn or ineligible for further review. Contention sets resulting from String Similarity review.
<u>End of Initial Evaluation</u>	Application status updates with all Initial Evaluation results.
<u>End of Extended Evaluation</u>	Application status updates with all Extended Evaluation results. Evaluation summary reports from the Initial and Extended Evaluation periods.
<u>During Objection Filing/Dispute Resolution</u>	Information on filed objections and status updates available via Dispute Resolution Service Provider websites. Notice of all objections posted by ICANN after close of Objection Filing period.

<u>During Contention Resolution (Community Priority Evaluation)</u>	<u>Results of each Community Priority Evaluation posted as completed.</u>
<u>During Contention Resolution (Auction)</u>	<u>Results from each auction posted as completed.</u>
<u>Transition to Delegation</u>	<u>Registry Agreements posted when executed.</u> <u>Pre-delegation testing status updated.</u>

~~1.1.5 This necessarily involves the participation of many stakeholder groups in a public discussion.~~

~~In the new gTLD application process, public comments will be a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. ICANN will open a public comment forum at the time the applications are publicly posted on ICANN's website (refer to paragraph 1.1.2.2), which will remain open through the application round.~~

~~Public comments received will be provided to the evaluators during the Initial and Extended Evaluation periods. Evaluators will have discretion to take the information provided in these comments into consideration as deemed necessary. Consideration of the applicability of the information submitted through public comments will be included in the evaluators' reports.~~

~~Public comments may also be relevant to one or more objection grounds. (Refer to Module 3, Dispute Resolution Procedures, for the objection grounds.) ICANN will provide all public comments received to DRSPs, who will have discretion to consider them.~~

~~A distinction should be made between public comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside this evaluation. ICANN created the formal objection process to allow a full and fair consideration of objections based on subject areas outside ICANN's mission and expertise. A party contacting ICANN to pursue an objection will be referred to the formal objection channels designed specifically for resolving these matters in the new gTLD space. More information on the objection and dispute resolution processes is available in Module 3.~~

1.1.4 Sample Application Scenarios

The following scenarios briefly show a variety of ways in which an application may proceed through the evaluation process. The table that follows summarizes some exemplifies various processes and outcomes. This is not intended to be an exhaustive list of possibilities. There are other possible combinations of paths an application could follow.

Estimated time frames for each scenario are also included, based on current knowledge. Actual time frames may vary depending on several factors, including the total number of applications received by ICANN during the application submission period. It should be emphasized that most applications are expected to pass through the process in the shortest period of time, i.e., they will not go through extended evaluation, dispute resolution, or string contention resolution processes. Although most of the scenarios below are for processes extending beyond eight months, it is expected that most applications will complete the process within the eight-month timeframe.

Scenario Number	Initial Evaluation	Extended Evaluation	Objection(s) Raised	String Contention	Approved for Subsequent Delegation Steps	Estimated Elapsed Time
1	Pass	N/A	None	No	Yes	8 months
2	Fail	Pass	None	No	Yes	13 months
3	Pass	N/A	None	Yes	Yes	10.5 – 14 months
4	Pass	N/A	Applicant prevails	No	Yes	13 months
5	Pass	N/A	Objector prevails	N/A	No	11 months
6	Fail	Quit	N/A	N/A	No	6 months
7	Fail	Fail	N/A	N/A	No	11 months
8	Fail	Pass	Applicant prevails	Yes	Yes	15.5 – 19 months
9	Fail	Pass	Applicant prevails	Yes	No	13.5 – 17 months

Scenario 1 – Pass Initial Evaluation, No Objection, No Contention – In the most straightforward case, the application passes Initial Evaluation and there is no need for an Extended Evaluation. No objections are raised during the objection period, so there is no dispute to

resolve. As there is no contention for the applied-for gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD. Most applications are expected to complete the process within this timeframe.

Scenario 2 – Extended Evaluation, No Objection, No Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. As with Scenario 1, no objections are ~~raised~~filed during the objection period, so there is no dispute to resolve. As there is no contention for the gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 3 – Pass Initial Evaluation, No Objection, Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. No objections are ~~raised~~filed during the objection period, so there is no dispute to resolve ~~and no appeal.~~ However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, ~~one the~~ application wins/prevails in the contention resolution, ~~and the other contenders are denied their applications, so the winning~~so the applicant can enter into a registry agreement and the application can proceed toward delegation of the applied-for gTLD.

Scenario 4 – Pass Initial Evaluation, Win Objection, No Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection filing period, ~~a valid~~an objection is ~~raised~~filed on one of the four enumerated grounds by an objector with standing ~~on one of the objection grounds~~ (refer to Module 3, Dispute Resolution Procedures). The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. The applicant can enter into a registry agreement and the application ~~proceeds~~can proceed toward delegation of the applied-for gTLD.

Scenario 5 – Pass Initial Evaluation, Lose Objection – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, multiple ~~valid~~ objections are ~~raised~~filed by one or more objectors with standing ~~in for~~ one or more of the four enumerated objection grounds. Each objection ~~category for which there are objections~~ is heard by a dispute

resolution service provider panel. In this case, the panels find in favor of the applicant for most of the objections, but one finds in favor of the objector. As one of the objections has been upheld, the application does not proceed.

Scenario 6 – Fail Initial Evaluation, Applicant Withdraws – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant decides to withdraw the application rather than continuing with Extended Evaluation. The application does not proceed.

Scenario 7 – Fail Initial Evaluation, Fail Extended Evaluation – In this case, the application fails one or more ~~steps~~ in aspects of the Initial Evaluation. The applicant requests Extended Evaluation for the appropriate elements. However, the application fails Extended Evaluation also. The application does not proceed.

Scenario 8 – Extended Evaluation, Win Objection, Pass Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, ~~one valid~~ an objection is ~~raised~~ filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider panel that ~~rules~~ finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the applicant prevails over other applications in the contention resolution procedure, the applicant can enter into a registry agreement, and the application can proceed toward ~~the~~ delegation phase of the applied-for gTLD.

Scenario 9 – Extended Evaluation, Objection, Fail Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection filing period, ~~one valid~~ an objection is ~~raised~~ filed on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider that ~~rules~~ finds in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, another applicant prevails in the contention resolution procedure, and the application does not proceed.

Transition to Delegation – After an application has successfully completed Initial ~~or Extended~~ Evaluation, ~~dispute resolution, if applicable,~~ and ~~string contention, if other stages as~~ applicable, the applicant is required to complete a set of steps leading to delegation of the gTLD, including execution of a registry agreement with ICANN, and completion of pre-delegation testing. Refer to Module 5 for a description of the ~~relevant~~ steps required in this phase-stage.

1.1.56 Subsequent Application Rounds

ICANN's goal is to launch ~~the next~~subsequent gTLD application rounds as quickly as possible. The exact timing will be based on experiences gained and changes required after this round is completed. The goal is for the next application round to begin within one year of the close of the application submission period for ~~this~~the initial round.

1.2 Information for All Applicants

1.2.1 Eligibility

~~Any established corporation, organization, or institution~~Established corporations, organizations, or institutions in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered. ~~Applications from or on behalf of yet-to-be-formed legal entities, or applications presupposing the future formation of a legal entity (for example, a pending Joint Venture) will not be considered.~~

1.2.2 Two Application Types: Open or Community-Based
ICANN has designed the New gTLD Program with multiple stakeholder protection mechanisms. Background screening, features of the gTLD Registry Agreement, data and financial escrow mechanisms are all intended to provide registrant and user protections.

The application form requires applicants to provide information on the legal establishment of the applying entity, as well as the identification of directors, officers, partners, and major shareholders of that entity.

Background screening at both the entity level and the individual level will be conducted for all applications to confirm eligibility. This inquiry is conducted on the basis of the information provided in questions 1-11 of the application form.

ICANN will perform background screening in only two areas: (1) General business diligence and criminal history; and (2) History of cybersquatting behavior. The criteria used for criminal history are aligned with the "crimes of trust" standard sometimes used in the banking and finance industry.

Background screening is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to deny an otherwise qualified application, or to contact the applicant with additional questions, based on the information obtained in the background screening process.

Applicants with confirmed convictions of the types listed in (a) – (k) below will be automatically disqualified from the program.

Circumstances where ICANN may deny an otherwise qualified application include, but are not limited to instances where the applicant, or any individual named in the application:

- a. within the past ten years, has been convicted of a felony, or of a misdemeanor related to financial or corporate governance activities, or has been judged by a court to have committed fraud or breach of fiduciary duty, or has been the subject of a judicial determination that ICANN deemed as the substantive equivalent of any of these;
- b. within the past ten years, has been disciplined by any government or industry regulatory body for conduct involving dishonesty or misuse of the funds of others;
- c. within the past ten years has been convicted of any willful tax-related fraud or willful evasion of tax liabilities;
- d. within the past ten years has been convicted of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or representative;

- e. has ever been convicted of any crime involving the use of a weapon, force, or the threat of force;
- f. has ever been convicted of any violent or sexual offense victimizing children, the elderly, or individuals with disabilities;
- g. has been convicted of aiding, abetting, facilitating, enabling, conspiring to commit, or failing to report any of the listed crimes within the respective timeframes specified above;
- h. has entered a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents) for any of the listed crimes within the respective timeframes listed above;
- i. is the subject of a disqualification imposed by ICANN and in effect at the time the application is considered;
- j. fails to provide ICANN with the identifying information necessary to confirm identity at the time of application or to resolve questions of identity during the background screening process;
- k. has been involved in of a pattern of decisions indicating that the applicant or individual named in the application was engaged in cybersquatting as defined in the UDRP, ACPA, or other equivalent legislation. Three or more such decisions with one occurring in the last four years will generally be considered to constitute a pattern.
- l. fails to provide a good faith effort to disclose all relevant information relating to items (a) – (k).

All applicants are required to ~~designate~~ provide complete and detailed explanations regarding any of the above events as part of the application. Crimes of a personal nature that do not meet any of the criteria listed in (a) – (k) will not be considered for the purpose of criminal

background screening and do not need to be disclosed. Background screening information will not be made publicly available by ICANN.

Registrar Cross-Ownership -- ICANN-accredited registrars are eligible to apply for a gTLD. However, all gTLD registries are required to abide by a Code of Conduct addressing, *inter alia*, non-discriminatory access for all authorized registrars. ICANN reserves the right to refer any application to the appropriate competition authority relative to any cross-ownership issues.

Legal Compliance -- ICANN must comply with all U.S. laws, rules, and regulations. One such set of regulations is the economic and trade sanctions program administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury. These sanctions have been imposed on certain countries, as well as individuals and entities that appear on OFAC's List of Specially Designated Nationals and Blocked Persons (the "SDN List"). ICANN is prohibited from providing most goods or services to residents of sanctioned countries or their governmental entities or to SDNs without an applicable U.S. government authorization or exemption. ICANN generally will not seek a license to provide goods or services to an individual or entity on the SDN List. In the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs, but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license.

1.2.2 Required Documents

All applicants should be prepared to submit the following documents, which are required to accompany each application:

1. **Proof of legal establishment** – Documentation of the applicant's establishment as a specific type of entity in accordance with the applicable laws of its jurisdiction.
2. **Financial statements.** Applicants must provide audited or independently certified financial statements for the most recently completed fiscal year for the applicant. In some cases, unaudited financial statements may be provided.

Supporting documentation should be submitted in the original language. English translations are not required.

~~for a new gTLD as open~~ or All documents must be valid at the time of submission. Refer to the Evaluation Criteria.

attached to Module 2, for additional details on the requirements for these documents.

Some types of supporting documentation are required only in certain cases:

1. **Community endorsement** – If an applicant has designated its application as community-based– (see section 1.2.3), it will be asked to submit a written endorsement of its application by one or more established institutions representing the community it has named. An applicant may submit written endorsements from multiple institutions. If applicable, this will be submitted in the section of the application concerning the community-based designation.
2. **1.2.2 Government support or non-objection** – If an applicant has applied for a gTLD string that is a geographic name, the applicant is required to submit a statement of support for or non-objection to its application from the relevant governments or public authorities. Refer to subsection 2.2.1.4 for more information on the requirements for geographical names. If applicable, this will be submitted in the geographic names section of the application.
3. **Documentation of third-party funding commitments** – If an applicant lists funding from third parties in its application, it must provide evidence of commitment by the party committing the funds. If applicable, this will be submitted in the financial section of the application.

1.2.3 Community-Based Designation

All applicants are required to designate whether their application is **community-based**.

1.2.3.1 Definitions

For purposes of this Applicant Guidebook, a **community-based gTLD** is a gTLD that is operated for the benefit of a clearly delineated community. Designation or non-designation of an application as community-based is entirely at the discretion of the applicant. Any applicant may designate its application as community-based; however, each applicant making this designation is asked to substantiate its status as representative of the community it names in the application by submission of written endorsements in support of the application. Additional information may be requested in the event of a community priority evaluation (refer to section 4.2 of

Module 4). An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a clearly delineated community.
- 4.2. Have applied for a gTLD string strongly and specifically related to the community named in the application.
3. For purposes of this RFP, an **open gTLD** is one that have proposed dedicated registration and use policies for registrants in its proposed gTLD, including appropriate security verification procedures, commensurate with the community-based purpose it has named.
4. Have its application endorsed in writing by one or more established institutions representing the community it has named.

For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as a **standard application**. A **standard gTLD** can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. ~~An open gTLD~~ A **standard applicant** may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions. Standard simply means here that the applicant has not designated the application as community-based.

~~For purposes of this RFP, a **community-based gTLD** is a gTLD that is operated for the benefit of a defined community consisting of a restricted population. An applicant designating its application as community based will be asked to substantiate its status as representative of the community it names in the application, and additional information may be requested in the event of a comparative evaluation (refer to Section 4.2 of Module 4). An applicant for a community based gTLD is expected to:~~

- ~~2. Demonstrate an ongoing relationship with a defined community that consists of a restricted population.~~
- ~~3.5. Have applied for a gTLD string strongly and specifically related to the community named in the application.~~
- ~~4. Have proposed dedicated registration and use policies for registrants in its proposed gTLD.~~
- ~~5. Have its application endorsed in writing by an established institution representing the community it has named.~~

1.2.3.2.2 Implications of Application Designation

Applicants should understand how their designation as ~~open community-based~~ or ~~community-based standard~~ will affect application processing at particular stages, and, if the application is successful, execution of the registry agreement and subsequent obligations as a gTLD registry operator, as described in the following paragraphs.

Objection/Dispute Resolution – All applicants should understand that an objection may be filed against any application on community ~~opposition~~ grounds, even if the applicant has not designated itself as community-based or declared the ~~TLDeTLD~~ to be aimed at a particular community. Refer to Module 3, Dispute Resolution Procedures.

String Contention – ~~Any applicant that has been identified as part~~Resolution of ~~a string contention may include one or more components, depending on the composition of the contention set (refer~~and the elections made by community-based applicants.

- A settlement between the parties can occur at any time after contention is identified. The parties will be encouraged to Module 4.1) may be obliged meet with an objective to participate settle the contention. Applicants in either a comparative evaluation or another efficient mechanism for contention always have the opportunity to resolve the contention voluntarily, resulting in the withdrawal of one or more applications, before reaching the contention resolution if the application reaches the string contention stage and the applicant elects to proceed.
- ~~A comparative~~A community priority evaluation will take place only if a community-based applicant in a contention set ~~has elected comparative~~elects this option. All community-based applicants in a contention set will be offered this option in the event that there is contention remaining after the applications have successfully completed all previous evaluation stages.

An auction will result for cases of contention not resolved by community priority evaluation.

- Another efficient mechanism for or agreement between the parties. Auction occurs as a

contention resolution ~~will result in other cases means of last resort~~. If a ~~comparative community priority~~ evaluation occurs but does not produce a clear winner, ~~the efficient mechanism will then result an auction will take place to resolve the contention~~.

Refer to Module 4, String Contention Procedures, for detailed discussions of contention resolution procedures.

Contract Execution and Post-Delegation – A community-based ~~gTLD~~-applicant will be subject to certain post-delegation contractual obligations to operate the gTLD in a manner consistent with the restrictions associated with its community-based designation, ~~once it begins operating the gTLD~~. ICANN must approve all material changes to the contract, including changes to community-based nature of the gTLD and any associated ~~contract changes provisions~~.

Community-based applications are intended to be a narrow category, for applications where there are unambiguous associations among the applicant, the community served, and the applied-for gTLD string. Evaluation of an applicant's designation as community-based will occur only in the event of a contention situation that results in a community priority evaluation. However, any applicant designating its application as community-based will, if the application is approved, be bound by the registry agreement to implement the community-based restrictions it has specified in the application. This is true even if there are no contending applicants.

1.2.23.3 Changes to Application Designation

An applicant may not change its designation as ~~open standard~~ or community-based once it has submitted a gTLD application for processing.

1.2.3 Required Documents

~~Applicants should be prepared to submit the following documents, which are required to accompany each application:~~

- ~~1. **Proof of legal establishment** – Examples of acceptable documentation include articles or a certificate of incorporation, articles of association or equivalent documents relative to the type of entity and the jurisdiction in which it is formed, such as statutes or membership agreements of the entity.~~

- ~~2. **Proof of good standing**—Examples of acceptable documentation include a certificate of good standing or other equivalent official document issued by a competent government authority, if offered by a governmental authority for the jurisdiction.~~

~~Under some laws or jurisdictions, it may be possible to prove both establishment and good standing with a single document. That is, the same document may suffice for items 1 and 2.~~

~~If no such certificates or documents are available in the applicant's jurisdiction, an affidavit drafted and signed by a notary public or a legal practitioner duly qualified to represent clients before the courts of the country in which the applicant's organization is established, declaring that the organization is established and in good standing, must be submitted.~~

- ~~3. If the applicant is a government body or organization, it must provide a **certified copy of the act** wherein or governmental decision whereby the government body or organization was established.~~

~~ICANN is aware that practices and documentation standards vary from region to region, and has attempted to account for a variety of these practices when specifying the requirements. Applicants with exceptional circumstances should contact ICANN to determine how to provide appropriate documentation.~~

- ~~4. **Financial statements**—Applicants must provide audited financial statements for the most recently completed fiscal year for the applicant, and unaudited financial statements for the most recently ended interim financial period for the applicant.~~

- ~~5. Before delegation: **documentary evidence of ability to fund ongoing basic registry operations** for then-existing registrants for a period of three to five years in the event of registry failure, default or until a successor operator can be designated.~~

~~All documents must be valid at the time of submission.~~

~~Supporting documentation should be submitted in the original language. English translations are not required.~~

~~Some supporting documentation will be required only in certain cases:~~

- ~~1. **Community endorsement**—If an applicant has designated its application as community based, it will be asked to submit a written endorsement of its~~

application by an established institution representing the community it has named.

2. ~~Government support or non-objection~~—If an applicant has applied for a string that is a geographical term, the applicant is required to submit a statement of support or non-objection for its application from the relevant government(s) or public authorities. Refer to Section 2.1.1.4 for more information on the requirements for geographical names.

3. ~~Documentation of outside funding commitments~~—If an applicant lists outside sources of funding in its application, it must provide evidence of commitment by the party committing the funds.

1.2.4 Notice ~~Concerning~~ Technical Acceptance Issues with New gTLDs

All applicants should be aware that ~~acceptance~~approval of ~~their applications by ICANN~~an application and ~~entering~~entry into a registry agreement with ICANN ~~does~~do not guarantee that ~~the~~a new gTLD will immediately function throughout the Internet. Past experience indicates that ~~ISPs and webhosters do not automatically allow passage of or access to~~network operators may not immediately fully support new ~~gTLD string~~top-level domains, even when these ~~strings are authorized by ICANN~~domains have been delegated in the DNS root zone, since ~~third-party~~software modifications may be required ~~that~~and may not happen ~~until there is a business case for doing so~~immediately.

Similarly, ~~web~~software applications ~~often~~sometimes ~~attempt to~~validate ~~name strings on data entry~~domain names and may ~~filter out~~not recognize new or unknown ~~string~~top-level domains. ICANN has no authority or ability to require ~~acceptance of that software~~accept new ~~gTLD name string~~top-level domains, although it does prominently publicize ~~ICANN authorized gTLD strings on its website, which~~top-level domains are valid and has developed a basic tool to assist application providers in the use of current root-zone data.

ICANN encourages applicants to familiarize themselves with these issues and account for them in ~~their~~startup and launch plans. Successful applicants may find themselves expending considerable efforts ~~post implementation in~~working with providers to achieve acceptance of their new ~~gTLD name string~~top-level domain.

Applicants should review (Informational) RFC 3696 (see <http://www.ietf.org/rfc/rfc3696.txt?number=3696&en/topics/TLD-acceptance/>) for background. IDN applicants should also review the material concerning experiences with IDN test strings in the root zone (see <http://idn.icann.org/>).

1.2.5.2.5 Notice concerning TLD Delegations

ICANN is only able to create TLDs as delegations in the DNS root zone, expressed using NS records with any corresponding DS records and glue records. There is no policy enabling ICANN to place TLDs as other DNS record types (such as A, MX, or DNAME records) in the root zone.

1.2.6 Terms and Conditions

All applicants must agree to a standard set of Terms and Conditions for the application process. The Terms and Conditions are available in Module 6 of this RFPguidebook.

1.2.7 Notice of Changes to Information

If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.

ICANN reserves the right to require a re-evaluation of the application in the event of a material change. This could involve additional fees or evaluation in a subsequent application round.

Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application.

1.2.8 Voluntary Designation for High Security Zones

ICANN and its stakeholders are currently developing a special designation for "High Security Zone Top Level Domains" ("HSTLDs"). This work is currently focusing on developing a standard for possible adoption by an international standards body who can administer audits and certifications on an independent basis.

This voluntary designation is for top-level domains that demonstrate and uphold enhanced security-minded practices and policies. While any registry operator, including successful new gTLD applicants, will be eligible to participate in this program, its development and operation are beyond the scope of this guidebook. An applicant's election to pursue an HSTLD designation is entirely independent of the evaluation process and will require completion of an additional set of requirements.

For more information on the HSTLD program, including current program development material and activities, please refer to <http://www.icann.org/en/topics/new-gtlds/hstld-program-en.htm>.

1.2.9 Security and Stability

Root Scaling: There has been significant study, analysis, and consultation in preparation for launch of the New gTLD Program: indicating that the addition of gTLDs to the root zone will not negatively impact the security or stability of the DNS.

It is estimated that 200-300 TLDs will be delegated annually, and determined that in no case will more than 1000 new gTLDs be added to the root zone in a year. The delegation rate analysis, consultations with the technical community, and anticipated normal operational upgrade cycles all lead to the conclusion that the new gTLD delegations will have no significant impact on the stability of the root system. However, all applicants should be aware that delegation of any new gTLDs is conditional on the continued absence of significant negative impact on the security or stability of the DNS.

1.2.10 Resources for Applicant Assistance

A variety of support resources are available to gTLD applicants. More information will be available on ICANN's website at <http://www.icann.org/en/topics/new-gtld-program.htm>.²

1.3 Information for Internationalized Domain Name Applicants

Some applied-for gTLD strings are expected to be Internationalized Domain Names (IDNs) ~~that~~. IDNs are

² The Joint SO/AC New gTLD Applicant Support Working Group is currently developing recommendations for support resources that may be available to gTLD applicants. Information on these resources will be published on the ICANN website once identified.

domain names including characters used in the local representation of languages not written with the basic Latin alphabet (a - z), European-Arabic digits (0 - 9), and the hyphen (-). As described below, IDNs require the insertion of ~~IDN-encoded~~ A-labels into the DNS root zone. IDNs are labels that contain one or more letters or characters other than LDH (letters a,...,z; digits 0,...,9; and the hyphen "-").

1.3.1 IDN-Specific Requirements

An applicant ~~applies for such an IDN string; it~~ must provide ~~accompanying~~ information indicating compliance with the IDNA protocol and other technical requirements. The IDNA protocol ~~is currently under revision~~ and its documentation can be found at <http://www.icann.org/en/topics/idn/rfcs.htm>.

Applicants must provide applied-for gTLD strings in the form of both a **U-label** (the IDN TLD in local characters) and an **A-label**.

An A-label is the ASCII ~~Compatible Encoding~~ form of an ~~IDNA valid string~~ IDN label. Every IDN A-label begins with the IDNA ACE prefix, "xn--", followed by a string that is a valid output of the Punycode algorithm, ~~and hence is making~~ a maximum of ~~5963 total~~ ASCII characters in length. The prefix and string together must conform to all requirements for a label that can be stored in the DNS including conformance to the LDH (host name) rule described in RFC 1034, RFC 1123, and elsewhere.

~~A U-label is an IDNA valid string of Unicode characters, including at least one non-ASCII character, expressed in a standard Unicode Encoding Form, normally UTF-8 in an Internet transmission context.~~

A U-label is the Unicode form of an IDN label, which a user expects to see displayed in applications.

For example, using the current IDN test string in Cyrillic script, the U-label is <испытание> and the A-label is ~~<xn--~~ ~~-80akhbyknj4f>~~. An A-label must be capable of being produced by conversion from a U-label and a U-label must be capable of being produced by conversion from an A-label.

Applicants for IDN gTLDs will also be required to provide the following at the time of the application:

1. ~~Short form~~Meaning or restatement of string ~~(in English)~~,-. The applicant will provide a short description of what the string would mean or represent in English.
2. Language of label (ISO 639-1). The applicant will specify the language of the applied-for TLD string, both according to the ~~ISO's~~ISO codes for the representation of names of languages~~,-~~ and in English.
3. Script of label (ISO 15924). The applicant will specify the script of the applied-for gTLD string, both according to the ISO ~~code~~codes for the ~~presentation~~representation of names of scripts, and in English.
4. Unicode code points. The applicant will list all the code points contained in the U-label according to its Unicode form.
- ~~5. Representation of label in phonetic alphabet. The applicant will provide its applied-for gTLD string notated according to the International Phonetic Alphabet (<http://www.arts.gla.ac.uk/IPA/ipachart.html>).~~
- ~~6. Its IDN table. This table provides the list of characters eligible for registration in domain names according to registry policy. It will contain any multiple characters that can be considered "the same" for the purposes of registrations at the second level. For examples, see <http://iana.org/domains/idn-tables/>.~~
5. Applicants must further demonstrate that they have made reasonable efforts to ensure that the encoded IDN string does not cause any rendering or operational problems. For example, problems have been identified in strings with characters of mixed right-to-left and left-to-right directionality when numerals are adjacent to the path separator~~-~~ (i.e., the dot).³
7. If an applicant ~~were~~is applying for a string with known issues, it should document steps that will be taken to mitigate these issues in applications. While it is not possible to ensure that all rendering problems are avoided, it is important that as many as possible are identified early and that the potential registry operator is aware of these issues. Applicants can become familiar with these issues by understanding the IDNA protocol (see <http://www.icann.org/en/topics/idn/rfcs.htm>), and by active participation in the IDN wiki (see <http://idn.icann.org/>) where some rendering problems are demonstrated.

³ See examples at <http://stupid.domain.name/node/683>

6. **[Optional]** - Representation of label in phonetic alphabet. The applicant may choose to provide its applied-for gTLD string notated according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>). Note that this information will not be evaluated or scored. The information, if provided, will be used as a guide to ICANN in responding to inquiries or speaking of the application in public presentations.

1.3.2 IDN Tables

An IDN table provides the list of characters eligible for registration in domain names according to the registry's policy. It identifies any multiple characters that are considered equivalent for domain name registration purposes ("variant characters"). Variant characters occur where two or more characters can be used interchangeably.

Examples of IDN tables can be found in the IANA IDN Repository at <http://www.iana.org/procedures/idn-repository.html>.

In the case of an application for an IDN gTLD, IDN tables must be submitted for the language or script for the applied-for gTLD string (the "top level tables"). IDN tables must also be submitted for each language or script in which the applicant intends to offer IDN registrations at the second or lower levels.

Each applicant is responsible for developing its IDN Tables, including specification of any variant characters. Tables must comply with ICANN's IDN Guidelines⁴ and any updates thereto, including:

- Complying with IDN technical standards.
- Employing an inclusion-based approach (i.e., code points not explicitly permitted by the registry are prohibited).
- Defining variant characters.
- Excluding code points not permissible under the guidelines, e.g., line-drawing symbols, pictographic dingbats, structural punctuation marks.
- Developing tables and registration policies in collaboration with relevant stakeholders to address common issues.

⁴ See <http://www.icann.org/en/topics/idn/idn-guidelines-26apr07.pdf>

- Depositing IDN tables with the IANA Repository for IDN Practices (once the TLD is delegated).

An applicant's IDN tables should help guard against user confusion in the deployment of IDN gTLDs. Applicants are strongly urged to consider specific linguistic and writing system issues that may cause problems when characters are used in domain names, as part of their work of defining variant characters.

To avoid user confusion due to differing practices across TLD registries, it is recommended that applicants cooperate with TLD operators that offer domain name registration with the same or visually similar characters.

As an example, languages or scripts are often shared across geographic boundaries. In some cases, this can cause confusion among the users of the corresponding language or script communities. Visual confusion can also exist in some instances between different scripts (for example, Greek, Cyrillic and Latin).

Applicants will be asked to describe the process used in developing the IDN tables submitted. ICANN may compare an applicant's IDN table with IDN tables for the same languages or scripts that already exist in the IANA repository or have been otherwise submitted to ICANN. If there are inconsistencies that have not been explained in the application, ICANN may ask the applicant to detail the rationale for differences. For applicants that wish to conduct and review such comparisons prior to submitting a table to ICANN, a table comparison tool will be available.

ICANN will accept the applicant's IDN tables based on the factors above.

Once the applied-for string has been delegated as a TLD in the root zone, the applicant is required to submit IDN tables for lodging in the IANA Repository of IDN Practices. For additional information, see existing tables at <http://iana.org/domains/idn-tables/>, and submission guidelines at <http://iana.org/procedures/idn-repository.html>.

1.3.3 IDN Variant TLDs

A variant TLD string results from the substitution of one or more characters in the applied-for gTLD string with variant characters based on the applicant's IDN table.

Each application contains one applied-for gTLD string. The applicant may also declare any variant strings for the TLD

in its application. However, no variant gTLD strings will be delegated through the New gTLD Program until variant management solutions are developed and implemented.⁵

When a variant delegation process is established, applicants may be required to submit additional information such as implementation details for the variant TLD management mechanism, and may need to participate in a subsequent evaluation process, which could contain additional fees and review steps.

The following scenarios are possible during the evaluation process:

- a. Applicant declares variant strings to the applied-for gTLD string in its application. If the application is successful, the applied-for gTLD string will be delegated to the applicant. The declared variant strings are noted for future reference. These declared variant strings will not be delegated to the applicant along with the applied-for gTLD string, nor will the applicant have any right or claim to the declared variant strings.

Variant strings listed in successful gTLD applications will be tagged to the specific application and added to a "Declared Variants List" that will be available on ICANN's website. A list of pending (i.e., declared) variant strings from the IDN ccTLD Fast Track is available at <http://icann.org/en/topics/idn/fast-track/string-evaluation-completion-en.htm>.

ICANN may independently determine which strings are variants of one another, and will not necessarily treat the applicant's list of purported variants as dispositive in the process.

- b. Multiple applicants apply for strings that are identified by ICANN as variants of one another. These applications will be placed in a contention set and will follow the contention resolution procedures in Module 4.
- c. Applicant submits an application for a gTLD string and does not indicate variants to the applied-for

⁵ The ICANN Board directed that work be pursued on variant management in its resolution on 25 Sep 2010, <http://www.icann.org/en/minutes/resolutions-25sep10-en.htm#2.5>.

gTLD string. ICANN will not identify variant strings unless scenario (b) above occurs.

Each variant string listed must also conform to the string requirements in section 2.2.1.3.2.

Variant strings listed in the application will be reviewed for consistency with the IDN tables submitted in the application. Should any declared variant strings not be based on use of variant characters according to the submitted top-level tables, the applicant will be notified and the declared string will no longer be considered part of the application.

Declaration of variant strings in an application does not provide the applicant any right or reservation to a particular string. Variant strings on the Declared Variants List may be subject to subsequent additional review per a process and criteria to be defined.

It should be noted that while variants for second and lower-level registrations are defined freely by the local communities without any ICANN validation, there may be specific rules and validation criteria specified for variant strings to be allowed at the top level. It is expected that the variant information provided by applicants in the first application round will contribute to a better understanding of the issues and assist in determining appropriate review steps and fee levels going forward.

1.4 Submitting an Application

Applicants may complete the application form and submit supporting documents using ICANN's TLD Application System (TAS). To access the ~~tool, applicants system, each applicant~~ must first register as a TAS user, ~~which involves paying a user registration fee of USD100.~~

As TAS users, applicants will be able to provide responses in open text boxes and submit required supporting documents as attachments. Restrictions on the size of attachments as well as the file formats are included in the instructions on the TAS site.

ICANN will not accept application forms or supporting materials submitted through other means than TAS (that is, hard copy, fax, email), unless such submission is in accordance with specific instructions from ICANN to applicants.

1.4.1 Accessing the TLD Application System

The TAS site is located at [URL to be inserted in final version of RFP].

TAS features include:

1.4.1.1—Sub-user Management

This feature allows applicants to create sub-users with varying permission levels to assist in completing the application. For example, if an applicant wishes to designate a user to complete the technical section of the application, the applicant can create a sub-user account with access only to that section.

1.4.1.2—Workflow Management

This feature allows applicants to check the status of their applications through TAS.

1.4.1.3—Security

ICANN uses all reasonable efforts to protect applicant information submitted through TAS. TAS uses advanced Internet security technology to protect applicant information against unauthorized access. This technology includes:

Secure Socket Layer (SSL)—To ensure that confidential information remains confidential, it is sent to TAS in a secure session using SSL technology. SSL technology scrambles or encrypts information as it moves between the user's browser and TAS.

Limited TAS Authorized Users and Permission Levels—TAS is a hierarchical system with defined user roles and permissions. ICANN authorized personnel have access only to the portions of the system they need. For example, an accounting user may only need access to perform updates to the portion of a record indicating whether an applicant's evaluation fee has been received.

Although ICANN intends to follow the security precautions outlined here, it offers no assurances that these procedures will keep an applicant's data confidential and secure from access by unauthorized third parties.

1.4.2 Technical Support

TAS users can refer to the FAQ/knowledge base or contact [email address to be inserted in final version of RFP] for help using the system. Users can expect to receive a tracking ticket number and a response within 24 to 48 hours through

the TAS submission tool. The TAS site will be accessible from the New gTLD webpage (<http://www.icann.org/en/topics/new-gtld-program.htm>), and will be highlighted in communications regarding the opening of the application submission period. Users of TAS will be expected to agree to a standard set of terms of use including user rights, obligations, and restrictions in relation to use of the system.

1.4.1.1 User Registration

TAS user registration requires submission of preliminary information, which will be used to validate the identity of the parties involved in the application. An overview of the information collected in the user registration process is below:

<u>No.</u>	<u>Questions</u>
<u>1</u>	<u>Full legal name of Applicant</u>
<u>2</u>	<u>Principal business address</u>
<u>3</u>	<u>Phone number of Applicant</u>
<u>4</u>	<u>Fax number of Applicant</u>
<u>5</u>	<u>Website or URL, if applicable</u>
<u>6</u>	<u>Primary Contact: Name, Title, Address, Phone, Fax, Email</u>
<u>7</u>	<u>Secondary Contact: Name, Title, Address, Phone, Fax, Email</u>
<u>8</u>	<u>Proof of legal establishment</u>
<u>9</u>	<u>Trading, subsidiary, or joint venture information</u>
<u>10</u>	<u>Business ID, Tax ID, VAT registration number, or equivalent of Applicant</u>
<u>11</u>	<u>Applicant background: previous convictions, cybersquatting activities</u>
<u>12(a)</u>	<u>Deposit payment confirmation</u>

A subset of identifying information will be collected from the entity performing the user registration, in addition to the applicant information listed above. The registered user could be, for example, an agent, representative, or

employee who would be completing the application on behalf of the applicant.

The registration process will require the user to request the desired number of application slots. For example, a user intending to submit five gTLD applications would request five application slots, and the system would assign the user a unique ID number for each of the five applications.

Users will also be required to submit a deposit of USD 5,000 per application slot. This deposit amount will be credited against the evaluation fee for each application. The deposit requirement is in place to help reduce the risk of frivolous access to the application system.

After completing the registration, TAS users will receive access enabling them to enter the rest of the application information into the system. Application slots will be populated with the registration information provided by the applicant, which may not ordinarily be changed once slots have been assigned.

No new user registrations will be accepted after [date to be inserted in final version of Applicant Guidebook].

ICANN will take commercially reasonable steps to protect all applicant data submitted from unauthorized access, but cannot warrant against the malicious acts of third parties who may, through system corruption or other means, gain unauthorized access to such data.

1.4.1.2 Application Form

Having obtained the requested application slots, the applicant will complete the remaining application questions. An overview of the areas and questions contained in the form is shown here:

<u>No.</u>	<u>Application and String Information</u>
<u>12(b)</u>	<u>Payment confirmation for remaining evaluation fee amount</u>
<u>13</u>	<u>Applied-for gTLD string</u>
<u>14</u>	<u>IDN string information, if applicable</u>
<u>15</u>	<u>IDN tables, if applicable</u>
<u>16</u>	<u>Mitigation of IDN operational or rendering problems, if applicable</u>

<u>17</u>	<u>Representation of string in International Phonetic Alphabet (Optional)</u>
<u>18</u>	<u>Mission/purpose of the TLD</u>
<u>19</u>	<u>Is the application for a community-based TLD?</u>
<u>20</u>	<u>If community based, describe elements of community and proposed policies</u>
<u>21</u>	<u>Is the application for a geographical name? If geographical, documents of support required</u>
<u>22</u>	<u>Measures for protection of geographical names at second level</u>
<u>23</u>	<u>Registry Services: name and full description of all registry services to be provided</u>
<u>No.</u>	<u>Technical and Operational Questions (External)</u>
<u>24</u>	<u>Shared registration system (SRS) performance</u>
<u>25</u>	<u>EPP</u>
<u>26</u>	<u>Whois</u>
<u>27</u>	<u>Registration life cycle</u>
<u>28</u>	<u>Abuse prevention & mitigation</u>
<u>29</u>	<u>Rights protection mechanisms</u>
	<u>Technical and Operational Questions (Internal)</u>
<u>30</u>	<u>Technical overview of proposed registry</u>
<u>31</u>	<u>Architecture</u>
<u>32</u>	<u>Database capabilities</u>
<u>33</u>	<u>Geographic diversity</u>
<u>34</u>	<u>DNS service compliance</u>
<u>35</u>	<u>Security</u>
<u>36</u>	<u>IPv6 reachability</u>
<u>37</u>	<u>Data backup policies and procedures</u>

38	Escrow
39	Registry continuity
40	Registry transition
41	Failover testing
42	Monitoring and fault escalation processes
43	DNSSEC
44	IDNs (Optional)
No.	Financial Questions
45	Financial statements
46	Projections template: costs and funding
47	Costs: setup and operating
48	Funding and revenue
49	Contingency planning: barriers, funds, volumes
50	Continuity: financial instrument

1.4.2 Customer Support during the Application Process

TAS will also provide applicants with access to support mechanisms during the application process. A support link will be available in TAS where users can refer to reference documentation (such as FAQs or user guides), or contact customer support.

When contacting customer support, users can expect to receive a tracking ticket number for a support request, and a response within 48 hours. Support requests will be routed to the appropriate person, depending upon the nature of the request. For example, a technical support request would be directed to the personnel charged with resolving TAS technical issues, while a question concerning the nature of the required information or documentation would be directed to an appropriate contact. The

response will be added to the reference documentation available for all applicants.

1.4.3 Backup Application Process

If the online application system is not available, ICANN will provide alternative instructions for submitting applications.

1.5 Fees and Payments

This section describes the fees to be paid by the applicant. Payment instructions are also included here.

1.5.1 ~~Breakdown of Fees and Amounts~~gTLD Evaluation Fee

The ~~following fees are~~gTLD evaluation fee is required from all applicants:

- ~~TAS User Registration Fee~~—USD 100. This fee enables a user to enter the online application system. ~~This fee is nonrefundable.~~

~~gTLD Evaluation Fee~~—in the amount of USD 185,000. ~~The evaluation fee is payable in the form of a 5,000 deposit submitted at the time the user requests application slots within TAS, and a payment of the remaining 180,000 submitted with the full application.~~ ICANN will not begin its evaluation of an application unless it has received the full gTLD evaluation fee by ~~the due [time] UTC [date. Refer to subsection 1.5.4.].~~

- The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded, and ~~doesn't take resources~~revenue neutral and is not subsidized by existing ~~contributions~~ from ~~other~~ ICANN funding sources, including generic ~~TLD~~ registries and registrars, ~~ccTLD~~ccTLD contributions and RIR contributions.

~~The gTLD evaluation fee covers all required reviews in Initial Evaluation and, in most cases, any required reviews in Extended Evaluation. If an extended Registry Services review takes place, an additional fee will be incurred for this review (see section 1.5.2). There is no additional fee to the applicant for Extended Evaluation for geographical names, technical and operational, or financial reviews. The evaluation fee also covers community priority evaluation fees in cases where the applicant achieves a passing score.~~

Refunds -- In certain cases, refunds of a portion of ~~this~~the evaluation fee may be available for applications that are withdrawn before the evaluation process is complete. An applicant may request a refund at any time until it has executed a registry agreement with ICANN. The amount of the refund will depend on the point in the process at which the withdrawal is made. ~~(Refer to subsection 1.5.5.). Details will be made available when the,~~ as follows:

<u>Refund Available to Applicant</u>	<u>Percentage of Evaluation Fee</u>	<u>Amount of Refund</u>
<u>After posting of applications until posting of Initial Evaluation results</u>	<u>70%</u>	<u>USD 130,000</u>
<u>After posting Initial Evaluation results</u>	<u>35%</u>	<u>USD 65,000</u>
<u>After the applicant has completed Dispute Resolution, Extended Evaluation, or String Contention Resolution(s)</u>	<u>20%</u>	<u>USD 37,000</u>
<u>After the applicant has entered into a registry agreement with ICANN</u>		<u>None</u>

Thus, any applicant that has not been successful is eligible for at least a 20% refund of the evaluation fee if it withdraws its application.

An applicant that wishes to withdraw an application must initiate the process through TAS and submit the required form to request a refund, including agreement to the terms and conditions for withdrawal. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN will be deducted from the amount paid. ~~is launched.~~

Note on 2000 proof-of-concept round applicants -- Participants in ICANN's proof-of-concept application process in 2000 may be eligible for a credit toward the evaluation fee. The credit is in the amount of USD 86,000 and is subject to:

- submission of documentary proof by the applicant that it is the same entity, a successor in interest to the same entity, or

- an affiliate of the same entity that applied previously;
- a confirmation that the applicant was not awarded any TLD string pursuant to the 2000 proof of concept application round and that the applicant has no legal claims arising from the 2000 proof-of-concept process; and
- submission of an application, which may be modified from the application originally submitted in 2000, for the same TLD string that such entity applied for in the 2000 proof-of-concept application round.

Each participant in the 2000 proof-of-concept application process is eligible for at most one credit. A maximum of one credit may be claimed for any new gTLD application submitted according to the process in this guidebook. Eligibility for this credit is determined by ICANN.

1.5.2 Fees Required in Some Cases

Applicants may be required to pay additional fees in certain cases where specialized process steps are applicable. Those possible additional fees include:

- **Registry Services Review Fee** – If applicable, this fee is payable for additional costs incurred in referring an application to the [Registry Services Technical Evaluation Panel \(RSTEP\)](#) for an extended review. Applicants will be notified if such a fee is due. The fee for a three-member RSTEP review team is anticipated to be USD 50,000. In some cases, five-member panels might be required, or there might be increased scrutiny at a greater cost. In every case, the applicant will be advised of the [review cost](#) before ~~its initiation~~ [of the review](#). Refer to [Section subsection 2.4.3](#) of Module 2 on Registry Services review.
- **Dispute Resolution Filing Fee** – This amount must accompany any filing of a formal objection and any response that an applicant files to an objection. This fee is payable [directly](#) to the applicable dispute resolution service provider in accordance with the provider's payment instructions. ICANN estimates that ~~non-refundable~~ filing fees could range from approximately USD 1,000 to USD 5,000 (or more) per party per proceeding. Refer to the appropriate provider for the relevant amount. Refer to Module 3 for dispute resolution procedures.
- ~~**Dispute Resolution Adjudication Fee**~~ – This fee is payable [Advance Payment of Costs](#) – In the event of a formal objection, this amount is payable [directly](#) to the applicable dispute resolution service provider in accordance with that provider's procedures and schedule of costs. ~~Both~~ [Ordinarily, both](#) parties in the dispute resolution proceeding will be required to submit an advance payment of costs in an estimated amount to cover the entire cost of the proceeding. This may be either an hourly fee based on the estimated number of hours the panelists will spend on the case (including review of submissions, facilitation of a hearing, if allowed, and preparation of a decision), or a fixed amount. [In cases where disputes are consolidated and there are more than two parties involved, the advance payment will occur according to the dispute resolution service provider's rules.](#)
- The prevailing party in a dispute resolution proceeding will have its advance payment refunded, while the non-prevailing party will not receive a refund and thus will bear the cost of the

proceeding. In cases where disputes are consolidated and there are more than two parties involved, the refund of fees will occur according to the dispute resolution service provider's rules.

ICANN estimates that adjudication fees for a proceeding involving a fixed amount could range from USD 2,000 to USD 8,000 (or more) per proceeding. ICANN further estimates that an hourly rate based proceeding with a one-member panel could range from USD 32,000 to USD 56,000 (or more) and with a three-member panel it could range from USD 70,000 to USD 122,000 (or more). These estimates may be lower if the panel does not call for written submissions beyond the objection and response, and does not allow a hearing. Please refer to the appropriate provider for the relevant amounts or fee structures. Refer also to Section 3.2 of Module 3 for further details.

- **Comparative Community Priority Evaluation Fee** – This In the event that the applicant participates in a community priority evaluation, this fee is payable as a deposit in an amount to cover the cost of the panel's review of that application (currently estimated at USD 10,000). The deposit is payable to the provider appointed to handle comparative community priority evaluations, in the event that the applicant participates in a comparative evaluation. Applicants will be notified if such a fee is due. Refer to Section 4.2 of Module 4. for circumstances in which a community priority evaluation may take place. An applicant who scores at or above the threshold for the community priority evaluation will have its deposit refunded.

This ICANN will notify the applicants of due dates for payment in respect of additional fees (if applicable). This list does not include fees (that is, annual registry fees) that will be payable to ICANN following execution of a registry agreement. See <http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf>.

1.5.23 Payment Methods

Payments to ICANN may should be submitted by **wire transfer**, ACH, money order, or check.

~~1.5.2.1—Wire Transfer Payment~~

~~Instructions for making a payment by wire transfer will be available in TAS.⁶~~

~~1.5.2.2—ACH Payment~~

~~Instructions for making **ACH payments** will be available in TAS.~~

~~1.5.2.3—Credit Card Payment~~

~~To make a **credit card payment**, note:~~

~~ICANN accepts Visa, MasterCard/Maestro, American Express and Discover credit cards as forms of payment. The maximum amount accepted is USD 20,000 per invoice.~~

- ~~• Fill out and sign the Credit Card Payment Form at <http://www.icann.org/en/financials/credit.pdf>.~~
- ~~• Send the completed form to ICANN at fax: +1.310.823.8649~~

~~Or mail the form to:~~

~~Internet Corporation for Assigned Names and Numbers (ICANN)
Attention: Finance Department
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601 USA~~

~~1.5.2. Payments to Dispute Resolution Service Providers should be submitted in accordance with the provider's instructions.~~

~~1.5.4 Check or Money Order Payment~~

~~To make a **payment by check or money order** (USD only), mail or deliver by private carrier to:~~

~~Internet Corporation for Assigned Names and Numbers (ICANN)
Attention: Finance Department
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601 USA~~

~~1.5.3—Requesting an Invoice a Remittance Form~~

~~The TAS interface allows applicants to request issuance of an invoice a remittance form for any of the fees payable~~

⁶ Wire transfer is the preferred method of payment as it offers a globally accessible and dependable means for international transfer of funds. This enables ICANN to receive the fee and begin processing applications as quickly as possible.

to ICANN. This service is for the convenience of applicants that require an invoice to process payments.

1.5.4 Deadlines for Payments

~~The Evaluation Fee must be received by [time] UTC [date].~~

~~ICANN or its providers will notify the applicants of due dates for payment in respect of additional fees (if applicable).~~

1.5.5 Withdrawals and Refunds

~~Refunds may be available to applicants who choose to withdraw at certain stages of the process.~~

~~An applicant that wishes to withdraw an application must use the TAS interface to request a refund. ICANN will not consider any other form of request for refunds. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN will be deducted from the amount paid.~~

~~Further details on refund amounts will be available in the final version of the RFP.~~

1.6 Questions about this RFP Applicant Guidebook

~~Applicants may submit For assistance and questions about an applicant may have in the process of completing the application form to [email address to be inserted in final version of RFP], applicants should use the customer support resources available through TAS. Applicants who are unsure of the information being sought in a question or the parameters for acceptable documentation are encouraged to communicate these questions through the appropriate support channels before the application is submitted. This helps avoid the need for exchanges with evaluators to clarify information, which extends the timeframe associated with the application.~~

~~Questions may be submitted via the TAS support link. To provide all applicants equitable access to information, ICANN will postmake all questions and answers in a centralized location on its website publicly available.~~

All requests to ICANN for information about the process or issues surrounding preparation of an application must be submitted in writing ~~to via~~ the designated email

addresssupport channels. ICANN will not grant requests from applicants for personal or telephone consultations regarding the preparation of an application. Applicants that contact ICANN for clarification about aspects of the application will be referred to the dedicated online question and answer area.

Answers to inquiries will only provide clarification about the application forms and procedures. ICANN will not provide consulting, financial, or legal advice.

Module 2

Evaluation Procedures

This module describes the evaluation procedures and criteria used to determine whether ~~applications applied for~~ gTLDs are approved for delegation ~~as a gTLD~~. All applicants will undergo an Initial Evaluation and those that do not pass all ~~phases~~ elements may ~~enter into an request~~ Extended Evaluation.

The first, required evaluation is the **Initial Evaluation**, during which ICANN ~~first~~ assesses an applied-for gTLD string, an applicant's qualifications, and its proposed registry services.

The following ~~elements make up~~ assessments are performed in the **Initial Evaluation**:

- String Reviews
 - String ~~confusion~~ similarity
 - Reserved ~~Names~~ names
 - DNS stability
 - ~~Geographical~~ Geographic names
- Applicant Reviews
 - Demonstration of technical and operational capability
 - Demonstration of financial capability
 - Registry services reviews for DNS stability issues

~~These elements, which are described in greater detail later in this module, are intended to ensure applied for gTLD strings do not negatively impact DNS security or stability, and to ensure that applicants are capable of operating the gTLD in a stable and secure manner, and that new services can be introduced without adverse effect on the security or stability of the DNS.~~

An ~~applicant~~ application must pass all these reviews to pass the Initial Evaluation. Failure to pass any one of these reviews will result in a failure to pass the Initial Evaluation.

Extended Evaluation may be applicable in cases in which an applicant does not pass the Initial Evaluation ~~or additional inquiry is required.~~ See Section 2.3 below.

2.1 Background Screening

Background screening will be conducted in two areas:

- (a) General business diligence and criminal history; and
- (b) History of cybersquatting behavior.

The application must pass both background screening areas to be eligible to proceed. Background screening results are evaluated according to the criteria described in section 1.2.1. The following sections describe the process ICANN will use to perform background screening.

2.1.1 General business diligence and criminal history

Applying entities that are publicly traded corporations listed and in good standing on any of the world's largest 25 stock exchanges (as listed by the World Federation of Exchanges) will be deemed to have passed the general business diligence and criminal history screening. The largest 25 will be based on the domestic market capitalization reported at the end of the most recent calendar year prior to launching each round.¹

Before an entity is listed on an exchange, it must undergo significant due diligence including an investigation by the exchange, regulators, and investment banks. As a publicly listed corporation, an entity is subject to ongoing scrutiny from shareholders, analysts, regulators, and exchanges. All exchanges require monitoring and disclosure of material information about directors, officers, and other key personnel, including criminal behavior. In totality, these requirements meet or exceed the screening ICANN will perform.

For applicants not listed on one of these exchanges, ICANN will submit identifying information for the entity, officers, directors, and major shareholders to an international background screening service. This service will use the criteria listed in section 1.2.1 and return results that match these criteria. Only publicly available information will be used in this inquiry.

¹ See <http://www.world-exchanges.org/files/statistics/excel/EQUITY109.xls>

Note that the applicant is expected to disclose potential problems in meeting the criteria in the application, and provide any clarification or explanation at the time of application submission. If any hits are returned, they will be matched with the disclosures provided by the applicant and those cases will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will pass this portion of the background screening.

2.1.2 History of cybersquatting

ICANN will screen applicants against UDRP cases and legal databases as financially feasible for data that may indicate a pattern of cybersquatting behavior pursuant to the criteria listed in section 1.2.1.

The applicant is required to make specific declarations regarding these activities in the application. If any hits are returned, the application will be matched with the disclosures provided by the applicant and those issues will be followed up to resolve issues of discrepancies or potential false positives.

If no hits are returned, the application will pass this portion of the background screening.

2.2 Initial Evaluation

The Initial Evaluation consists of two types of examination review. Each type is composed of several elements.

String review: The first examination review focuses on the applied-~~for~~ gTLD string to test:

- Whether the applied-for gTLD string is so similar to ~~others and other strings that it~~ would ~~cause~~ create a probability of user confusion;
- Whether the applied-for gTLD string might ~~disrupt~~ adversely affect DNS security or stability; and
- Whether evidence of requisite government approval is ~~given~~ provided in the case of certain ~~geographical~~ geographic names.

Applicant review: The second examination review focuses on the applicant to test:

- Whether the applicant has the requisite technical, operational, and financial capability to operate a registry; and
- Whether the registry services offered by the applicant might adversely affect DNS security or stability.

2.2.1.1 String Reviews

In the Initial Evaluation, ICANN reviews every applied-for gTLD string ~~for string confusion, potential to introduce instability into the DNS, and whether relevant government approval is required.~~ Those reviews are described in greater detail in the following ~~paragraphs~~subsections.

2.2.1.1.1 String ~~Confusion~~Similarity Review

~~The objective of this review is to prevent user confusion and loss of confidence in the DNS.~~ This review involves a preliminary comparison of each applied-for gTLD string against existing TLDs ~~and against~~ Reserved Names (see subsection 2.2.1.2), and other applied-for gTLD strings. The ~~examination is to determine whether the applied-for gTLD string is~~ objective of this review is to prevent user confusion and loss of confidence in the DNS resulting from delegation of many similar strings.

Note: In this Applicant Guidebook, “similar” means strings so similar to one of the others that it would they create a probability of detrimental user confusion if it were to be more than one of the strings is delegated to into the root zone. ICANN will perform determinations of string

The visual similarity in accordance with the steps outlined here check that occurs during Initial Evaluation is intended to augment the objection and dispute resolution process (see Module 3, Dispute Resolution Procedures) that addresses all types of similarity.

~~The~~This similarity review will be conducted by ~~a panel of an independent~~ String Similarity Panel.

2.2.1.1.1 Reviews Performed

The String Similarity Panel’s task is to identify visual string similarities that would create a probability of user confusion.

The panel performs this task of assessing similarities that would lead to user confusion in four sets of circumstances, when comparing:

- Applied-for gTLD strings against existing TLDs and reserved names;
- Applied-for gTLD strings against other applied-for gTLD strings;
- Applied-for gTLD strings against strings requested as IDN ccTLDs; and
- Applied-for 2-character IDN gTLD strings against:
 - Every other single character.
 - Any other 2-character ASCII string (to protect possible future ccTLD delegations).

Similarity to Existing TLDs or Reserved Names – This review involves cross-checking between each applied-for string and the lists of existing TLD strings and Reserved Names to determine whether two strings are so similar to one another that they create a probability of user confusion.

In the simple case in which an applied-for gTLD string is identical to an existing TLD or reserved name, the application system will not allow the application to be submitted.

Testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. For example, protocols treat equivalent labels as alternative forms of the same label, just as “foo” and “Foo” are treated as alternative forms of the same label (RFC 3490).

All TLDs currently in the root zone can be found at <http://iana.org/domains/root/db/>. ~~Examiners. This examination~~

IDN tables that have been submitted to ICANN are available at <http://www.iana.org/domains/idn-tables/>.

Similarity to Other Applied-for gTLD Strings (String Contention Sets) – All applied-for gTLD strings will be reviewed against one another to identify any similar strings. In performing this review, the String Similarity Panel will create contention sets that may be used in later stages of evaluation.

A contention set contains at least two applied-for strings identical or similar to one another. [Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution.](#)

ICANN will notify applicants who are part of a contention set as soon as the String Similarity review is completed. (This provides a longer period for contending applicants to reach their own resolution before reaching the contention resolution stage.) These contention sets will also be published on ICANN's website.

Similarity to TLD strings requested as IDN ccTLDs -- Applied-for gTLD strings will also be reviewed for similarity to TLD strings requested in the IDN ccTLD Fast Track process (see <http://www.icann.org/en/topics/idn/fast-track/>). Should a conflict with a prospective fast-track IDN ccTLD be identified, ICANN will take the following approach to resolving the conflict.

If one of the applications has completed its respective process before the other is lodged, that TLD will be delegated. A gTLD application that has successfully completed all relevant evaluation stages, including dispute resolution and string contention, if applicable, and is eligible for entry into a registry agreement will be considered complete, and therefore would not be disqualified by a newly-filed IDN ccTLD request. Similarly, an IDN ccTLD request that has completed evaluation (i.e., is "validated") will be considered complete and therefore would not be disqualified by a newly-filed gTLD application.

In the case where neither application has completed its respective process, where the gTLD application does not have the required approval from the relevant government or public authority, a validated request for an IDN ccTLD will prevail and the gTLD application will not be approved. The term "validated" is defined in the IDN ccTLD Fast Track Process Implementation, which can be found at <http://www.icann.org/en/topics/idn>.

In the case where a gTLD applicant has obtained the support or non-objection of the relevant government or public authority, but is eliminated due to contention with a string requested in the IDN ccTLD Fast Track process, a full refund of the evaluation fee is available to the applicant if the gTLD application was submitted prior to the publication of the ccTLD request.

Review of 2-character IDN strings — In addition to the above reviews, an applied-for gTLD string that is a 2-character IDN string is reviewed by the String Similarity Panel for visual similarity to:

a) Any one-character label (in any script), and

b) Any possible two-character ASCII combination.

An applied-for gTLD string that is found to be too similar to a) or b) above will not pass this review.

2.2.1.1.2 Review Methodology

The String Similarity Panel is informed in part by an algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs- and reserved names. The score will provide one objective measure for consideration by the panel, as part of the process of identifying strings likely to result in user confusion. In general, applicants should expect that a higher visual similarity score suggests a higher probability that the application will not pass the String Similarity review. However, it should be noted that the score is only indicative and that the final determination of similarity is entirely up to the Panel's judgment.

The examiners' task is algorithm, user guidelines, and additional background information are available to identify applicants for testing and informational purposes.² Applicants will have the ability to test their strings and obtain algorithmic results through the application system prior to submission of an application.

The algorithm supports the common characters in Arabic, Chinese, Cyrillic, Devanagari, Greek, Japanese, Korean, and Latin scripts. It can also compare strings in different scripts to each other.

The panel will also take into account variant characters, as defined in any relevant language table, in its determinations. For example, strings that are not visually similar but are determined to be variant TLD strings based on an IDN table would be placed in a contention set. Variant TLD strings that are listed as part of the application will also be subject to the string similarity analysis.³

The panel will examine all the algorithm data and perform its own review of similarities that would create a probability of detrimental user confusion. The examiners between strings and whether they rise to the level of string confusion. In cases of strings in scripts not yet supported by the

² See <http://icann.sword-group.com/algorithm/>

³ In the case where an applicant has listed Declared Variants in its application (see subsection 1.3.3), the panel will perform an analysis of the listed strings to confirm that the strings are variants according to the applicant's IDN table. This analysis may include comparison of applicant IDN tables with other existing tables for the same language or script, and forwarding any questions to the applicant.

algorithm, the panel's assessment process is entirely manual.

The panel will use a common standard to test for whether string confusion exists, as follows:

Standard for String Confusion – String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

~~The standard will be applied in two sets~~ ***2.2.1.1.3***

Outcomes ~~of circumstances, when comparing:~~

- ~~• Applied for gTLD strings against existing TLDs and reserved names.~~
- ~~• Applied for gTLD strings against other applied for gTLD strings or strings requested in ccTLD processes).~~

~~***Existing***~~ ***String Similarity Examination*** – This review involves cross-checking between each applied-for string and the list of existing TLD strings to determine whether the two strings are so similar to one another that they create a probability of detrimental user confusion. ***Review***

~~All TLDs currently in the root zone can be found at <http://iana.org/domains/root/db/>~~

An application that fails the ~~string confusion~~ ***String Similarity*** review ~~and is found too similar~~ ***due to similarity*** to an existing ~~string~~ ***TLD*** will not pass the Initial Evaluation, and no further reviews will be available.

~~In the simple case in which~~ ***Where*** an ~~applied-for TLD string is identical to an existing TLD, the application system~~ ***does not pass the String Similarity review, the applicant*** will recognize the existing TLD and not allow the application to be submitted.

Such testing for identical strings also takes into consideration the code point variants listed in any relevant language reference table.

For example, protocols treat equivalent labels ***notified*** as alternative forms of the same label, just ***soon*** as "foo" and "Foo" are treated as alternate forms of the same label (RFC 3490).

the review is completed.

An application for a string that is found too similar to another applied-for gTLD string will be placed in a contention set.

An application that passes the string confusion String Similarity review is still subject to challenge objection by an existing TLD operator or by another gTLD applicant in the current application round. That process requires that a specific string confusion objection be filed by an objector having the standing to make such an objection. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

String Contention Sets: Similarity with Other Applied-for gTLD Strings—All applied-for gTLD strings will be reviewed against one another to identify any strings that are so similar that they create a probability of detrimental user confusion would result if more than one is delegated into the root zone. In performing the string confusion review, the panel of String Similarity Examiners will create contention sets that may be used later in the process. A contention set contains at least two applied-for strings identical to one another or so similar that string confusion would result if more than one were delegated into the root zone. ~~Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution. ICANN will notify applicants who are part of a contention set by the conclusion of the Initial Evaluation period. These contention sets will also be published on ICANN's website.~~

Similarity to TLD strings applied for as ccTLDs—Applied-for gTLD strings will also be reviewed for similarity to TLD strings applied for in the IDN ccTLD Fast Track process (see <http://www.icann.org/en/topics/idn/fast-track/>). Should conflict with a prospective fast track IDN ccTLD be identified, ICANN will take steps to resolve the conflict. (See process for Geographical Names in paragraph 2.1.1.4.)

String Similarity Algorithm—The String Similarity Algorithm (Algorithm) is a tool the examiners use to provide one objective measure as part of the process of identifying strings likely to result in confusion. The Algorithm is also available to applicants for testing and informational purposes. The Algorithm and user guidelines are available at <http://80.124.160.66/icann-algorithm>.

The Algorithm calculates scores for visual similarity between any two strings, using factors such as letters in sequence, number of similar letters, number of dissimilar letters, common prefixes, common suffixes, and string length.

2.1.1. An applicant may file a formal objection against another gTLD application on string confusion grounds. Such an objection may, if successful, change the configuration of the preliminary contention sets in that the two applied-for gTLD strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

2.2.1.2 ~~Review for~~ Reserved Names

The Reserved Names review involves comparison. All applied-for gTLD strings are compared with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

Top-Level Reserved Names List

<i>AFRINIC</i>	<i>IANA-SERVERS</i>	<i>NRO</i>
<i>ALAC</i>	<i>ICANN</i>	<i>RFC-EDITOR</i>
<i>APNIC</i>	<i>IESG</i>	<i>RIPE</i>
<i>ARIN</i>	<i>IETF</i>	<i>ROOT-SERVERS</i>
<i>ASO</i>	<i>INTERNIC</i>	<i>RSSAC</i>
<i>CCNSO</i>	<i>INVALID</i>	<i>SSAC</i>
<i>EXAMPLE*</i>	<i>IRTF</i>	<i>TEST*</i>
<i>GAC</i>	<i>ISTF</i>	<i>TLD</i>
<i>GNSO</i>	<i>LACNIC</i>	<i>WHOIS</i>
<i>GTLD-SERVERS</i>	<i>LOCAL</i>	<i>WWW</i>
<i>IAB</i>	<i>LOCALHOST</i>	
<i>IANA</i>	<i>NIC</i>	
*Note that in addition to the above strings, ICANN will also reserve translations of the terms "test" and "example" in multiple languages. <u>The remainder of the strings are reserved only in the form included above.</u>		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the Reserved Name and will not allow the application to be submitted.

In addition, applied-for gTLD strings are reviewed ~~in a process identical to that described in during the preceding section~~ String Similarity review to determine whether they ~~exceed a similarity threshold with~~ are similar to a Reserved Name. An application for a gTLD string that is identified as

too similar to a Reserved Name will not pass ~~the Reserved Names~~this review.

Names appearing on the Declared Variants List (see section 1.3.3) will be posted on ICANN's website and will be treated essentially the same as Reserved Names. That is, an application for a gTLD string that is identical or similar to a string on the Declared Variants List will not pass this review.

2.12.1.3 DNS Stability Review for Potential DNS Instability

This review determines whether an applied-for gTLD string might cause instability to the DNS. In all cases, this will involve a review for conformance with technical and other requirements for gTLD ~~strings (labels-)~~. In some exceptional cases, an extended review may be necessary to investigate possible technical stability problems with the applied-for gTLD string.

2.2.1.1.3.1 StringDNS Stability: String Review Procedure

New gTLD labels must not adversely affect ~~on~~ the security or stability of the DNS. ~~Although no string complying with the requirements in paragraph 2.1.1.3.2 of this module is expected to adversely affect DNS security or stability, an extended review is possible if technical reviewers identify an issue with the applied for gTLD string that requires further investigation.~~

~~**String Stability Review Procedure**~~— During the Initial Evaluation period, ICANN will conduct a preliminary review on the set of applied-for gTLD strings to ~~ensure that proposed strings comply with relevant standards provided in the preceding section and determine whether any strings raise significant technical stability issues that may require an Extended Evaluation.~~

- ensure that applied-for gTLD strings comply with the requirements provided in section 2.2.1.3.2, and
- determine whether any strings raise significant security or stability issues that may require further review.

There is a very low probability that ~~this review~~extended analysis will be necessary for a string that fully complies with the string requirements in ~~paragraph~~subsection 2.12.1.3.2 of this module. However, the ~~technical stability~~string review process provides an additional safeguard if unanticipated

security or stability issues arise concerning an applied-for gTLD string.

~~See Section 2.2 for further information on the Extended Evaluation process.~~

~~2.4 In such a case, the DNS Stability Panel will perform an extended review of the applied-for gTLD string during the Initial Evaluation period. The panel will determine whether the string fails to comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will report on its findings.~~

~~If the panel determines that the string complies with relevant standards and does not create the conditions described above, the application will pass the DNS Stability review.~~

~~If the panel determines that the string does not comply with relevant technical standards, or that it creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application will not pass the Initial Evaluation, and no further reviews are available. In the case where a string is determined likely to cause security or stability problems in the DNS, the applicant will be notified as soon as the DNS Stability review is completed.~~

2.2.1.3.2 String Requirements⁴

ICANN will review each applied-for gTLD string to ensure that it ~~conforms~~complies with the requirements outlined in the following paragraphs.

If an applied-for gTLD string is found to violate any of these rules, the application will ~~be denied~~not pass the DNS Stability review. No further reviews are available.

Part I -- Technical Requirements for all Labels (Strings) – The technical requirements for ~~the selection of~~ top-level domain labels follow.

- 1.1 The ASCII label (~~that is, i.e.,~~ the label as transmitted on the wire) must be valid as specified in ~~the~~ technical standards *Domain Names: Implementation and Specification* (RFC 1035), and *Clarifications to the DNS Specification* (RFC 2181).~~]~~

⁴ The string requirements have been revised according to revisions of RFC 1123 in progress in the IETF. See <http://tools.ietf.org/html/draft-li-man-tld-names-04>.

and any updates thereto. This includes the following:

- 1.1.1 The label must have no more than 63 characters.
- 1.1.2 Upper and lower case characters are treated as identical.
- 1.2 The ASCII label must be a valid host name, as specified in the technical standards *DOD Internet Host Table Specification* (RFC 952), *Requirements for Internet Hosts — Application and Support* (RFC 1123), and *Application Techniques for Checking and Transformation of Names* (RFC 3696), *Internationalized Domain Names in Applications (IDNA)* (RFCs 5890-5894), and any updates thereto. This includes the following:
 - 1.2.1 The ASCII label must consist entirely of letters, ~~digits and hyphens~~, (alphabetic characters a-z), or
 - ~~The label must not start or end with a hyphen.~~
 - ~~There must be no possibility for confusing an ASCII label for an IP address or other numerical identifier by application software. For example, representations such as "255", "0377" or "0xff" representing decimal, octal, and hexadecimal strings, can be confused for IP addresses. As such, labels:~~
 - ~~Must not be wholly composed of digits between "0" and "9".~~
 - ~~Must not commence with "0x" or "x", and have the remainder of the label wholly composed of hexadecimal digits, "0" to "9" and "a" through "f".~~
 - ~~Must not commence with "0o" or "o", and have the remainder of the label wholly composed of digits between "0" and "7".~~
 - 1.2.2 The ASCII label may only include hyphens in the third and fourth position if it represents a valid Internationalized Domain Name in its IDNA A-label form (ASCII encoding), (further restricted as described in Part II below).

- The presentation format of the domain (that is, either the label for ASCII domains, or the U-label for Internationalized Domain Names) must not begin or end with a digit.

Part II -- Requirements for Internationalized Domain Names

– These requirements apply only to prospective top-level domains that ~~use~~**contain** non-ASCII characters. Applicants for these internationalized top-level domain labels are expected to be familiar with the IETF IDNA standards, Unicode standards, and the terminology associated with Internationalized Domain Names.

- 2.1 The label must be ~~a valid internationalized domain name, an A-label~~ as ~~specified~~**defined** in IDNA, converted from (and convertible to) a U-label that is consistent with the technical standard Internationalizing Domain Names definition in Applications (RFC 3490). This includes IDNA, and further restricted by the following~~nonexhaustive, non-exhaustive,~~ list of limitations:

2.1.1 ~~Must only contain Unicode code points that are defined as "Valid" in~~ **Must be a valid A-label according to IDNA.**

- 2.1.2 The ~~Unicode Codepoints and IDNA~~ (~~<http://www.ietf.org/internet-drafts/draft-ietf-idnabis-tables-02.txt>~~)**derived property value of all codepoints, as defined by IDNA, must be PVALID** and be accompanied by unambiguous contextual rules where necessary.⁵

2.1.3 ~~The general category of all codepoints, as defined by IDNA, must be one of (Li, Lo, Lm, Mn).~~

- 2.1.4 ~~Must be fully compliant with Normalization Form C, as described in Unicode Standard Annex #15: Unicode Normalization Forms. See also examples in~~ **<http://unicode.org/faq/normalization.html>.**

⁵ ~~It is expected that conversion tools for IDNA 2008 will be available before the Application Submission period begins, and that labels will be checked for validity under IDNA2008. In this case, labels valid under the previous version of the protocol (IDNA2003) but not under IDNA2008 will not meet this element of the requirements. Labels that are valid under both versions of the protocol will meet this element of the requirements. Labels valid under IDNA2008 but not under IDNA2003 may meet the requirements; however, applicants are strongly advised to note that the duration of the transition period between the two protocols cannot presently be estimated nor guaranteed in any specific timeframe. The development of support for IDNA2008 in the broader software applications environment will occur gradually. During that time, TLD labels that are valid under IDNA2008, but not under IDNA2003, will have limited functionality.~~

- 2.1.5 Must consist entirely of characters with the same directional property.
- 2.2 The label must meet the relevant criteria of the ICANN *Guidelines for the Implementation of Internationalised Domain Names*. See <http://www.icann.org/en/topics/idn/implementation-guidelines.htm>. This includes the following ~~nonexhaustive~~, non-exhaustive, list of limitations:
 - 2.2.1 All code points in a single label must be taken from the same script as determined by the Unicode Standard Annex #24: Unicode Script Property.
 - 2.2.2 Exceptions to 2.2.1 are permissible for languages with established orthographies and conventions that require the commingled use of multiple scripts. However, even with this exception, visually confusable characters from different scripts will not be allowed to co-exist in a single set of permissible code points unless a corresponding policy and character table isare clearly defined.

~~The IDNA protocol used for internationalized labels is currently under revision through the Internet standardization process. As such, additional requirements may be specified that need to be adhered to as this revision is being completed. The current status of the protocol revision is documented at <http://tools.ietf.org/wg/idnabis>.~~

Part III - Policy Requirements for Generic Top-Level Domains – These requirements apply to all prospective top-level domain strings applied for as gTLDs.

- 3.1 Applied-for gTLD strings in ASCII must be composed of three or more visually distinct ~~letters or characters~~. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.
- 3.2 Applied-for gTLD strings in IDN scripts must be composed of two or more visually distinct characters in the script, as appropriate. Note, however, that a two-character IDN string will not be approved if:

~~2.1~~

3.2.1 It is visually similar to any one-character label (in any script); or

3.2.2 It is visually similar to any possible two-character ASCII combination.

See the String Similarity review in subsection 2.2.1.1 for additional information on this requirement.

2.2.1.4 GeographicalGeographic Names Review

ICANN will review all applied Applications for gTLD strings to ensure that appropriate consideration is given to the interests of governments or public authorities in country or territorygeographic names, as well as certain other types of sub-national place names. The requirements and procedure ICANN will follow in the evaluation process are described in the following paragraphs. Applicants should review these requirements even if they do not believe their intended gTLD string is a geographic name. All applied-for gTLD strings will be reviewed according to the requirements in this section, regardless of whether the application indicates it is for a geographic name.

2.2.1.4.1 Requirements for Strings IntendedTreatment of Country or Territory Names⁶

Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to Represent Geographical Entitiesbe a country or territory name if:

- i. it is an alpha-3 code listed in the ISO 3166-1 standard.
- ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.
- iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.

⁶ Country and territory names are excluded from the process based on advice from the Governmental Advisory Committee in recent communiqués providing interpretation of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographic strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

- iv. it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.
- v. it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.
- vi. It is a permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like "the." A transposition is considered a change in the sequence of the long or short-form name, for example, "RepublicCzech" or "IslandsCayman."

2.2.1.4.2 Geographic Names Requiring Government Support

The following types of ~~applications applied for strings are~~ considered geographic names and must be accompanied by ~~documents~~ documentation of support or non-objection from the relevant governments or public authorities:

1. An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard.

In this case, it is anticipated that the relevant government(s) or public authority(ies) would be at the national level.

- Applications for any string that is a meaningful representation of a *country or territory name* listed in the ISO 3166-1 standard (see http://www.iso.org/iso/country_codes/iso_3166_data_bases.htm). This includes a representation of the country or territory name in any of the six official United Nations languages (French, Spanish, Chinese, Arabic, Russian and English) and the country or territory's local language.
2. Applications for any string that representsAn application for a *city name*, where the applicant

declares that it intends to use the gTLD for purposes associated with the city name.

City names present challenges because city names may also be generic terms or brand names, and in many cases no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.

An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:

(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and

(b) The applied-for string is a city name as listed on official city documents.⁷

In the case of an application that meets conditions (a) and (b), documentation of support will be required only from the relevant government or public authority of the city named in the application.

- 3. An application for any string that is an exact match of a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.
- Applications for a city name, where the applicant clearly intends to use the gTLD to leverage from the city name.

In this case, it is anticipated that the relevant government or public authority would be at the sub-national level, such as a state, provincial or local government or authority.

⁷ City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

- An application for a string ~~which represents~~ listed as a continent or UNESCO region⁸ or appearing on the

4. "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings ~~list at~~ <http://unstats.un.org/unsd/methods/m49/m49regin.htm>." list.⁹

In the case of an application for a string appearing on either of the lists above, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written statement of objection to the application from relevant governments in the region and/or public authorities associated with the continent or the region.

Where the 60% rule is applied, and there are common regions on both lists, the regional composition contained in the "composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" takes precedence.

An applied-for gTLD string that falls into ~~the any of 1 through 4 listed~~ any of 1 through 4 listed above ~~categories~~ is considered to represent a ~~geographical~~ geographic name. In the event of any doubt, it is in the applicant's interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from all the relevant governments or public authorities. It is anticipated that this may apply to the case of a sub-national place name.

It is the applicant's responsibility to-:

- identify whether its applied-for gTLD string falls into any of the above categories; and to

⁸ See <http://www.unesco.org/new/en/unesco/worldwide/>.

⁹ See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.

- determine the relevant ~~government or~~ governments, or ~~the relevant public authority or~~ authorities. ~~In the case of an application for a string;~~ and
- identify which ~~represents a continent or UN region,~~ ~~evidence level~~ of ~~government support, or non-~~ ~~objection, will be~~ is required.

The requirement to include documentation of support for certain applications does not preclude or exempt applications from ~~a~~being the subject of objections on community grounds (refer to subsection 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial ~~number of the relevant governments and/or public authorities associated with the continent or the UN region~~opposition from the targeted community.

2.2.1.4.3 Documentation Requirements

The ~~evidence~~documentation of support or non-objection should include a signed letter from the relevant government or public authority ~~should include a signed letter of support or non-objection from.~~ Understanding that this will differ across the respective jurisdictions, the letter could be signed by the minister with the portfolio responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister or President of the relevant jurisdiction. ~~If there are reasons for doubt about the, or a senior representative of the agency or~~ department responsible for domain name administration, ICT, foreign affairs, or the Office of the Prime Minister. To assist the applicant in determining who the relevant government or public authority may be for a potential geographic name, the applicant may wish to consult with the relevant Governmental Advisory Committee (GAC) representative.¹⁰

The letter must clearly express the government's or public authority's support for or non-objection to the applicant's application and demonstrate the government's or public authority's understanding of the string being requested and intended use.

The letter should also demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and that the applicant is willing to accept the conditions under which the string will be available, i.e., entry into a registry

¹⁰ See <http://gac.icann.org/gac-members>

agreement with ICANN requiring compliance with consensus policies and payment of fees. (See Module 5 for a discussion of the obligations of a gTLD registry operator.)

A sample letter of support is available as an attachment to this module.

It is important to note that a government or public authority is under no obligation to provide documentation of support or non-objection in response to a request by an applicant.¹¹

2.2.1.4.4 Review Procedure for Geographic Names

A Geographic Names Panel (GNP) will determine whether each applied-for gTLD string represents a geographic name, and verify the relevance and authenticity of the supporting documentation where necessary.

The GNP will review all applications received, not only those where the applicant has noted its applied-for gTLD string as a geographic name. For any application where the GNP determines that the applied-for gTLD string is a country or territory name (as defined in this module), the application will not pass the Geographic Names review and will be denied. No additional reviews will be available.

For any application where the GNP determines that the applied-for gTLD string is not a geographic name requiring government support (as described in this module), the application will pass the Geographic Names review with no additional steps required.

For any application where the GNP determines that the applied-for gTLD string is a geographic name requiring government support, the GNP will confirm that the applicant has provided the required documentation from the relevant governments or public authorities, and that the communication, ICANN will consult with the from the government or public authority is legitimate and contains the required content. ICANN may confirm the authenticity of the communication by consulting with the relevant diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact ~~with~~within their administration for communications.

¹¹ It is also possible that a government may withdraw its support for an application at a later time, including after the new gTLD has been delegated, if registry operator has deviated from the conditions of original support or non-objection.

The GNP may communicate with the signing entity of the letter must clearly express the government's or public authority's support or non-objection for the applicant's application and demonstrate the government's or public authority's to confirm their intent and their understanding of the string being requested and what it will be used for.

The requirement to include evidence of support for certain applications does not preclude or exempt applications from being the subject of objection terms on community grounds (refer to section 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community the support for an application is given.

2.1.1.4.2—Review Procedure for Geographical Names

A Geographical Names Panel (GNP) will be established to evaluate applications and confirm whether each string represents a geographic term, and to verify the authenticity of the supporting documentation. In cases where necessary, The Geographic Names Panel may consult with additional experts as they consider appropriate.

The steps ICANN and the Geographical Names Panel intend to follow to ensure compliance with these requirements are described here.

1. During the Initial Evaluation period, ICANN evaluates each application for a geographical name to confirm that the an applicant has not provided a letter of support or nonobjection from the relevant government.
2. ICANN forwards applications considered complete to required documentation, the GNP for confirmation that:
 - The strings are a meaningful representation of a country or territory name or a subnational place name, and
 - The communication from the government or public authority is legitimate and contains the suggested content.
3. The GNP also reviews applications that are not self-identified as a geographical name to ensure that the applied for string is not a meaningful representation of a country or territory name or a sub-national place name.

4. ~~All applications determined to be geographical but without necessary supporting documents will be considered incomplete. The applicant will be contacted and notified and of the requirement, and given a limited time frame to provide the documentation. If the applicant is able to provide the documentation before the close of the Initial Evaluation period, and the documentation is found to meet the requirements, the applicant will pass the Geographic Names review. If not, the application applicant will not pass Initial Evaluation.~~
5. ~~The GNP may consult have additional expertise if uncertainty arises about time to obtain the name required documentation; however, if the applied for gTLD string is claimed to represent.~~

~~The results of applicant has not produced the evaluation will be publicly posted on ICANN's website required documentation by the required date (at the conclusion of the Initial Evaluation, and will also be available to applicants least 90 days from the date of notice), the application will be considered incomplete and will be ineligible for further review. The applicant may reapply in subsequent application rounds, if desired, subject to the fees and requirements of the specific application rounds.~~

If there is more than one application for a string representing a certain ~~geographical term~~ geographic name as described in this section, and the applications ~~are considered complete (that is, have requisite government approvals),~~ the applications will be suspended pending resolution by the applicants. ~~If there is~~

~~If an application for a string representing a geographic name is in a contention between identical (or set with applications for similar) applicants where one is strings that have not been identified as a geographical name names, the string contention will be settled using the string contention methodology procedures described in Module 4.~~

2.12.2 Applicant Reviews

Concurrent with the applied-for gTLD string reviews described in subsection 2.4.2.1, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections.

2.1.2.1—Information Sought

The questions provided for applicants in the 2.2.2.1 Technical/Operational Review

In its application form are available at <http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf>. Applicants answer, the applicant will respond to a set of questions (see questions which cover the following three areas in relation to themselves: general information, technical and operational capability, and financial capability.

Applicants should be aware that the application materials submitted in the online application system, as well as any evaluation materials and correspondence, will be publicly posted on ICANN's website. The sections in the application that are marked CONFIDENTIAL will not be posted. Any sections of the application that ICANN has not designated CONFIDENTIAL will be posted.

The applicant questions cover the following three areas:

General Information—These questions are 24 – 44 in the Application Form intended to gather information about an applicant's legal identity, contact information, and applied for gTLD string. Failure to provide any of this information will result in an application being considered incomplete. Under specific areas of questions under this category are: the identification of the applied for string; selection of TLD type; and requests for certain documents.

Demonstration of Technical and Operational Capability—These questions are intended to gather information about an the applicant's technical capabilities and its plans for operation of the proposed gTLD.

Applicants are not required to have deployed an actual gTLD registry to complete the requirements for a successful application pass the Technical/Operational review. It will be sufficient at application time necessary, however, for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of running a gTLD registry. Each operation. Subsequently, each applicant that passes the technical evaluation and all other steps will be required, following execution of a registry agreement, to complete a pre-delegation technical test before prior to delegation of the applied for new gTLD. Refer to Module 5, Transition to Delegation, for additional information.

Demonstration of 2.2.2.2 Financial Capability—These Review

In its application, the applicant will respond to a set of questions ~~are~~ (see questions 45-50 in the Application Form) intended to gather information about ~~an~~the applicant's financial capabilities ~~to operate~~for operation of a gTLD registry ~~business~~ and its financial planning in preparation for long-term ~~operation~~stability of ~~a~~the new gTLD.

Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans identifying system hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment. That is, the evaluation criteria scale with the applicant plans to provide flexibility.

2.1.2.2.3 Evaluation Methodology

~~Initial Evaluations~~Dedicated technical and financial evaluation panels will conduct the technical/operational and financial reviews, according to the established criteria and scoring methodology included as an attachment to this module. These reviews are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the ~~application form.~~ ~~ICANN and its evaluators~~Application Form.

The evaluators may request clarification or additional information during the Initial Evaluation period. For each application, clarifying questions will be consolidated and sent to the applicant from each of the panels. The applicant will thus have an opportunity to clarify or supplement the application in those areas where a request is made by the evaluators. These communications will occur via the online application system, rather than by phone, letter, email, or other means. Unless otherwise noted, such communications will include a 3-week deadline for the applicant to respond. Any supplemental information provided by the applicant will become part of the application.

It is the applicant's responsibility to ensure that the questions have been fully answered and the required documentation is attached. Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and are not obliged to take into account any information or evidence that is not made

available in the application and submitted by the due date, unless explicitly requested by the evaluators.

~~Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and any such request will be made solely through TAS, rather than by direct means such as phone, letter, email, or other similar means. Only one exchange of information between the applicant and the evaluators may take place within the Initial Evaluation period.~~

~~Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans noting hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment.~~

2.12.3 Registry Services Review

Concurrent with the ~~string~~other reviews ~~described in subsection 2.1.1 that occur during the Initial Evaluation period~~, ICANN will review the applicant's proposed registry services for any possible adverse impact on security or stability. The applicant will be required to provide a list of proposed registry services in its application.

2.2.3.1 Definitions

Registry services are defined as: ~~(1)~~

1. operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement; ~~(2)~~
2. other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and ~~(3)~~
3. any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator.

~~A full definition of Proposed registry service can be found at <http://www.icann.org/en/registries/rsep/rsep.html> and in the draft registry agreement at~~

~~http://www.icann.org/en/topics/new_gtld-draft-agreement-24oct08-en.pdf~~. Registry services will be examined to determine if ~~the proposed registry service~~they might raise significant stability or security issues. Examples of services ~~submitted to the registry services process~~proposed by ~~established~~existing registries can be found at <http://www.icann.org/en/registries/rsep/>. In most cases, these proposed services successfully pass this inquiry.

~~The registration of domain names, for example, is a registry service. Lists of registry~~Registry services currently provided by gTLD registries can be found in registry agreement appendices. ~~In general cases, these services successfully pass this inquiry.~~ See <http://www.icann.org/en/registries/agreements.htm>.

~~Review~~A full definition of all applicants' proposed registry services ~~will occur during the Initial Evaluation.~~

~~**Procedure**—ICANN's first review will~~can be a preliminary determination of whether a proposed registry service requires further consideration based on whether the registry service may raise significant security or stability issues. found at <http://www.icann.org/en/registries/rsep/rsep.html>.

~~If ICANN's preliminary determination reveals that there may be significant security or stability issues surrounding the proposed service, the application will be flagged for an extended review by the RSTEP (see <http://www.icann.org/en/registries/rsep/rstep.html>). This review will occur during the Extended Evaluation phase (refer to section 2.2).~~

~~Definitions for security and stability applied in the registry services review are:~~

For purposes of this review, security and stability are defined as follows:

Security – an effect on security by the proposed registry service means (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

Stability – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates a

condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.

2.12.2.3.2 Customary Services

The following registry services are customary services offered by a registry operator:

- Receipt of data from registrars concerning registration of domain names and name servers
- Dissemination of TLD zone files
- Dissemination of contact or other information concerning domain name registrations
- DNS Security Extensions

The applicant must describe whether any of these registry services are intended to be offered in a manner unique to the TLD.

Any additional registry services that are unique to the proposed gTLD registry should be described in detail. Directions for describing the registry services are provided at http://www.icann.org/en/registries/rsep/rrs_sample.html.

2.2.3.3 TLD Zone Contents

ICANN receives a number of inquiries about use of various record types in a registry zone, as entities contemplate different business and technical models. Permissible zone contents for a TLD zone are:

- Apex SOA record.
- Apex NS records and in-bailiwick glue for the TLD's DNS servers.
- NS records and in-bailiwick glue for DNS servers of registered names in the TLD.
- DS records for registered names in the TLD.
- Records associated with signing the TLD zone (i.e., RRSIG, DNSKEY, NSEC, and NSEC3).

An applicant wishing to place any other record types into its TLD zone should describe in detail its proposal in the

registry services section of the application. This will be evaluated and could result in an extended evaluation to determine whether the service would create a risk of a meaningful adverse impact on security or stability of the DNS. Applicants should be aware that a service based on use of less-common DNS resource records in the TLD zone, even if approved in the registry services review, might not work as intended for all users due to lack of application support.

2.2.3.4 Methodology

Review of the applicant's proposed registry services will include a preliminary determination of whether any of the proposed registry services could raise significant security or stability issues and require additional consideration.

If the preliminary determination reveals that there may be significant security or stability issues (as defined in subsection 2.2.3.1) surrounding a proposed service, the application will be flagged for an extended review by the Registry Services Technical Evaluation Panel (RSTEP), see <http://www.icann.org/en/registries/rsep/rstep.html>. This review, if applicable, will occur during the Extended Evaluation period (refer to Section 2.3).

In the event that an application is flagged for extended review of one or more registry services, an additional fee to cover the cost of the extended review will be due from the applicant. Applicants will be advised of any additional fees due, which must be received before the additional review begins.

2.2.4 Applicant's Withdrawal of an Application

An applicant who does not pass the Initial Evaluation may ~~be permitted to~~ withdraw its application at this stage ~~for and request~~ a partial refund (refer to subsection 1.5-5 of Module 1, ~~Introduction to gTLD Application Process~~).

2.23 Extended Evaluation

An applicant may request an Extended Evaluation if the application has failed to pass the Initial Evaluation elements concerning:

- Geographic names (refer to subsection 2.2.1.4) – There is no additional fee for an extended evaluation in this instance.
- Demonstration of technical and operational capability (refer to ~~paragraph~~subsection 2.42.2.1).

There is no additional fee for an extended evaluation in this instance.

- Demonstration of financial capability (refer to ~~paragraph 2.1.2.1)~~ subsection 2.2.2.2). There is no additional fee for an extended evaluation in this instance.

~~An Extended Evaluation may also result if ICANN identifies a need for further review on the following elements:~~

- ~~• DNS stability (refer to paragraph 2.1.1.3).~~
- Registry services (refer to subsection 2.42.3). Note that this investigation incurs an additional fee (the Registry Services Review Fee) if the applicant wishes to proceed. See Section 1.5 of Module 1 for fee and payment information.

An Extended Evaluation does not imply any change of the evaluation criteria. The same criteria used in the Initial Evaluation will be used to review the application in light of clarifications provided by the applicant.

From the time an applicant receives notice of failure to pass the Initial Evaluation, ~~it has eligible applicants will have~~ 15 calendar days to submit to ICANN the Notice of Request for Extended Evaluation ~~through the online application interface~~. If the applicant does not explicitly request the Extended Evaluation, ~~(and pay any an additional fees as applicable, fee in the case of a Registry Services inquiry)~~ the application will not proceed.

2.23.1 Geographic Names Extended Evaluation

In the case of an application that has been identified as a geographic name requiring government support, but where the applicant has not provided evidence of support or non-objection from all relevant governments or public authorities by the end of the Initial Evaluation period, the applicant has additional time in the Extended Evaluation period to obtain and submit this documentation.

If the applicant submits the documentation to the Geographic Names Panel by the required date, the GNP will perform its review of the documentation as detailed in section 2.2.1.4. If the applicant has not provided the documentation by the required date (at least 90 days from the date of the notice), the application will not pass the Extended Evaluation, and no further reviews are available.

2.3.2 Technical ~~and~~/Operational or Financial Extended Evaluation

~~This subsection~~The following applies to an Extended Evaluation of an applicant's technical and operational capability or financial capability, as described in ~~paragraph~~subsection 2.1-2.1-2.

An applicant who has requested Extended Evaluation will again access the online application system and clarify its answers to those questions or sections on which it received a non-passing score. The answers should be responsive to the evaluator report that indicates the reasons for failure. Applicants may not use the Extended Evaluation period to substitute portions of new information for the information submitted in their original applications, i.e., to materially change the application.

An applicant participating in an Extended Evaluation on the Technical / Operational or Financial reviews will have the option to have its application reviewed by the same evaluation panelists who performed the review during the Initial Evaluation period, or to have a different set of panelists perform the review during Extended Evaluation.

The Extended Evaluation allows ~~one an~~ an additional ~~round~~exchange of ~~inquiry and answer~~information between the evaluators and the applicant to further clarify information contained in the application. This supplemental information will become part of the application. ~~Applicants may not change the information submitted in their original applications. Through the online system, the evaluators will provide the applicant a set of questions describing any deficiencies in the application and request clarification.~~

record. Such communications will include a deadline for the applicant to respond.

~~The same panel that reviewed an application during Initial Evaluation will conduct the Extended Evaluation, using the same criteria as outlined at <http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf>, to determine whether the application, now that certain information has been clarified, meets the criteria.~~

ICANN will notify applicants at the end of the Extended Evaluation period as to whether they have passed. If an applicant~~application~~ passes Extended Evaluation, its~~application-it~~ continues to the next stage in the process. If an applicant~~application~~ does not pass Extended Evaluation, the application~~it~~ will proceed no further. No further reviews are available.

2.2.2 ~~String Stability~~ Extended Evaluation

~~This section applies to an Extended Evaluation of DNS security or stability issues with an applied for gTLD string, as described in paragraph 2.1.1.3.~~

~~If the evaluators determine that a string poses stability issues that require further investigation, the applicant must either confirm that it intends to move forward with the application process or withdraw its application.~~

~~If an application is subject to such an Extended Evaluation, an independent 3 member panel will be formed to review the security or stability issues identified during the Initial Evaluation.~~

~~The panel will review the string and determine whether the string complies with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will communicate its findings to ICANN and to the applicant.~~

~~If the panel determines that the string does not comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application cannot proceed.~~

2.2.3 Registry Services Extended Evaluation

This section applies to ~~an~~ Extended Evaluation of Registry Services~~registry services~~, as described in subsection 2.42.3.

If a proposed registry service has been referred to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review, the RSTEP will form a review team of members with the appropriate qualifications.

The review team will generally consist of ~~3~~three members, depending on the complexity of the registry service proposed. In a 3-member panel, the review could be conducted within 30 to 45 days. In cases where a 5-member panel is needed, this will be identified before the extended evaluation starts. In a 5-member panel, the review could be conducted in 45 days or fewer.

The cost of an RSTEP review will be covered by the applicant through payment of the Registry Services Review Fee. Refer to payment procedures in section 1.5 of Module 1. The RSTEP ~~team~~ review will not commence until payment has been received.

If the RSTEP finds that one or more of the applicant's proposed registry services may be introduced without risk of a meaningful adverse effect on security or stability, these services ~~may~~will be included in the applicant's contract with ICANN.

If the RSTEP finds that the proposed service would create a risk of a meaningful adverse effect on security or stability, the applicant may elect to proceed with its application without the proposed service, or withdraw its application for the gTLD. In this instance, an applicant has 15 calendar days to notify ICANN of its intent to proceed with the application. If an applicant does not explicitly provide such notice within this time frame, the application will proceed no further.

2.3—~~Probity and Conflicts~~4 Parties Involved in Evaluation

A number of Interest

~~ICANN staff and by various independent service providers will review all applications during Initial Evaluation and Extended Evaluation. During this entire experts and groups play a part in performing the various reviews in the evaluation process, applicants must not approach, or have any other person or entity approach on. A brief description of the various panels, their behalf, any ICANN staff member, any ICANN Board member, or any person associated with the evaluation process, roles, and the circumstances under which they work is included in this section.~~

2.4.1 Panels and Roles

The **String Similarity Panel** will assess whether a proposed gTLD string creates a probability of user confusion due to similarity with any reserved name, any existing TLD, any requested IDN ccTLD, or any new gTLD string applied for in the current application round. This occurs during the String Similarity review in Initial Evaluation. The panel may also review IDN tables submitted by applicants as part of its work.

The **DNS Stability Panel** will review each applied-for string to determine whether the proposed string might adversely affect the security or stability of the DNS. This occurs during the DNS Stability String review in Initial Evaluation.

The **Geographic Names Panel** will review each application to determine whether the applied-for gTLD represents a geographic name, as defined in this guidebook. In the event that the string represents a geographic name and requires government support, the panel will ensure that the required documentation is provided with the application and verify that the documentation is from the relevant governments or public authorities and is authentic.

The **Technical Evaluation Panel** will review the technical components of each application against the criteria in the Applicant Guidebook, along with proposed registry operations, in order to determine whether the applicant is technically and operationally capable of operating a gTLD registry as proposed in the application. This occurs during the Technical/Operational reviews in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Financial Evaluation Panel** will review each application against the relevant business, financial and organizational criteria contained in the Applicant Guidebook, to determine whether the applicant is financially capable of maintaining a gTLD registry as proposed in the application. This occurs during the Financial review in Initial Evaluation, and may also occur in Extended Evaluation if elected by the applicant.

The **Registry Services Technical Evaluation Panel (RSTEP)** will review the proposed registry services in the application to determine if any registry services pose a risk of a meaningful adverse impact on security or stability. This occurs, if applicable, during the Extended Evaluation period.

Members of all panels are required to abide by the established Code of Conduct and Conflict of Interest guidelines included in this module.

2.4.2 Panel Selection Process

ICANN is in the process of selecting qualified third-party providers to perform the various reviews.¹² In addition to the specific subject matter expertise required for each panel, specified qualifications are required, including any evaluators, experts, examiners, or reviewers retained:

- The provider must be able to convene – or have the capacity to convene - globally diverse panels and be able to evaluate applications from all regions of the world, including applications for IDN gTLDs.
- The provider should be familiar with the IETF IDNA standards, Unicode standards, relevant RFCs and the terminology associated with IDNs.
- The provider must be able to scale quickly to meet the demands of the evaluation of an unknown number of applications. At present it is not known how many applications will be received, how complex they will be, and whether they will be predominantly for ASCII or non-ASCII gTLDs.
- The provider must be able to evaluate the applications within the required timeframes of Initial and Extended Evaluation.

The providers will be formally engaged and announced on ICANN's website prior to the opening of the Application Submission period.

2.4.3 Code of Conduct Guidelines for Panelists

The purpose of the New gTLD Program ("Program") Code of Conduct ("Code") is to prevent real and apparent conflicts of interest and unethical behavior by any Evaluation Panelist ("Panelist").

Panelists shall conduct themselves as thoughtful, competent, well prepared, and impartial professionals throughout the application process. Panelists are expected to comply with equity and high ethical standards while assuring the Internet community, its constituents, and the

¹² See <http://icann.org/en/topics/new-gtlds/open-tenders-eoi-en.htm>.

public of objectivity, integrity, confidentiality, and credibility. Unethical actions, or even the appearance of compromise, are not acceptable. Panelists are expected to be guided by the following principles in carrying out their respective responsibilities. This Code is intended to summarize the principles and nothing in this Code should be considered as limiting duties, obligations or legal requirements with which Panelists must comply.

Bias -- Panelists shall:

- not advance personal agendas or non-ICANN approved agendas in the evaluation of applications;
- examine facts as they exist and not be influenced by past reputation, media accounts, or unverified statements about the applications being evaluated;
- exclude themselves from participating in the evaluation of an application if, to their knowledge, there is some predisposing factor that could prejudice them with respect to such evaluation; and
- exclude themselves from evaluation activities if they are philosophically opposed to or are on record as having made generic criticism about a specific type of applicant or application.

Compensation/Gifts -- Panelists shall not request or accept any compensation whatsoever or any gifts of substance from the Applicant being reviewed or anyone affiliated with the Applicant. (Gifts of substance would include any gift greater than USD 25 in value).

If the giving of small tokens is important to the Applicant's culture, Panelists may accept these tokens; however, the total of such tokens must not exceed USD 25 in value. If in doubt, the Panelist should err on the side of caution by declining gifts of any kind.

Conflicts of Interest -- Panelists shall act in accordance with the "New gTLD Program Conflicts of Interest Guidelines" (see subsection 2.4.3.1).

Confidentiality -- Confidentiality is an integral part of the evaluation process. Panelists must have access to sensitive information in order to conduct evaluations. Panelists must

maintain confidentiality of information entrusted to them by ICANN and the Applicant and any other confidential information provided to them from whatever source, except when disclosure is legally mandated or has been authorized by ICANN. "Confidential information" includes all elements of the Program and information gathered as part of the process – which includes but is not limited to: documents, interviews, discussions, interpretations, and analyses – related to the review of any new gTLD application.

Affirmation -- All Panelists shall read this Code prior to commencing evaluation services and shall certify in writing that they have done so and understand the Code.

2.4.3.1 Conflict of Interest Guidelines for Panelists

It is recognized that third-party providers may have a large number of employees in several countries serving numerous clients. In fact, it is possible that a number of Panelists may be very well known within the registry / registrar community and have provided professional services to a number of potential applicants.

To safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner, ICANN has established detailed Conflict of Interest guidelines and procedures that will be followed by the Evaluation Panelists. To help ensure that the guidelines are appropriately followed ICANN will:

- Require each Evaluation Panelist (provider and individual) to acknowledge and document understanding of the Conflict of Interest guidelines.
- Require each Evaluation Panelist to disclose all business relationships engaged in at any time during the past six months.
- Where possible, identify and secure primary and backup providers for evaluation panels.
- In conjunction with the Evaluation Panelists, develop and implement a process to identify conflicts and re-assign applications as appropriate to secondary or contingent third party providers to perform the reviews.

Compliance Period -- All Evaluation Panelists must comply with the Conflict of Interest guidelines beginning with the

opening date of the Application Submission period and ending with the public announcement by ICANN of the final outcomes of all the applications from the Applicant in question.

Guidelines -- The following guidelines are the minimum standards with which all Evaluation Panelists must comply. It is recognized that it is impossible to foresee and cover all circumstances in which a potential conflict of interest might arise. In these cases the Evaluation Panelist should evaluate whether the existing facts and circumstances would lead a reasonable person to conclude that there is an actual conflict of interest.

Evaluation Panelists and Immediate Family Members:

- Must not be under contract, have or be included in a current proposal to provide Professional Services for or on behalf of the Applicant during the Compliance Period.
- Must not currently hold or be committed to acquire any interest in a privately-held Applicant.
- Must not currently hold or be committed to acquire more than 1% of any publicly listed Applicant's outstanding equity securities or other ownership interests.
- Must not be involved or have an interest in a joint venture, partnership or other business arrangement with the Applicant.
- Must not have been named in a lawsuit with or against the Applicant.
- Must not be a:
 - o Director, officer, or employee, or in any capacity equivalent to that of a member of management of the Applicant;
 - o Promoter, underwriter, or voting trustee of the Applicant; or
 - o Trustee for any pension or profit-sharing trust of the Applicant.

Definitions--

Evaluation Panelist: An Evaluation Panelist is any individual associated with the review of an application. This includes any primary, secondary, and contingent third party Panelists engaged by ICANN to review new gTLD applications.

Immediate Family Member: Immediate Family Member is a spouse, spousal equivalent, or dependent (whether or not related) of an Evaluation Panelist.

Professional Services: include, but are not limited to legal services, financial audit, financial planning / investment, outsourced services, consulting services such as business / management / internal audit, tax, information technology, registry / registrar services.

2.4.3.2 Code of Conduct Violations

Evaluation panelist breaches of the Code of Conduct, whether intentional or not, shall be reviewed by ICANN, which may make recommendations for corrective action, if deemed necessary. Serious breaches of the Code may be cause for dismissal of the person, persons or provider committing the infraction.

In a case where ICANN determines that a Panelist has failed to comply with the Code of Conduct, the results of that Panelist's review for all assigned applications will be discarded and the affected applications will undergo a review by new panelists.

Complaints about violations of the Code of Conduct by a Panelist may be brought to the attention of ICANN via the public comment and applicant support mechanisms, throughout the evaluation period. Concerns of applicants regarding panels should be communicated via the defined support channels (see subsection 1.4.2). Concerns of the general public (i.e., non-applicants) can be raised via the public comment forum, as described in Module 1.

2.4.4 Communication Channels

Defined channels for technical support or exchanges of information with ICANN and with evaluation panels are available to applicants during the Initial Evaluation and Extended Evaluation periods. Contacting individual ICANN staff members, Board members, or individuals engaged by ICANN to perform an evaluation role in order to lobby for a

particular outcome or to obtain confidential information about applications under review is not appropriate. In the interests of fairness and equivalent treatment for all applicants, any such individual contacts will be referred to the appropriate communication channels.

Module 3

Dispute Resolution Procedures

This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging ~~an~~ a formal objection to a gTLD application, the general procedures for filing or responding to an objection, and the manner in which dispute resolution proceedings are conducted.

This module also discusses the guiding principles, or standards, that each ~~DRSP~~ dispute resolution panel will apply in reaching its decisions ~~expert determination~~.

All applicants should be aware of the possibility that an objection may be filed against ~~their applications~~ any application, and of the procedures and options available in the event of such an objection.

3.1 Purpose and Overview of the Dispute Resolution Process

The independent dispute resolution process is designed to protect certain interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows ~~certain parties~~ a party with standing to have ~~their objections~~ its objection considered before a panel of qualified experts.

A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection.

3.1.1 Grounds for Objection

An objection may be filed on any one of the following four grounds:

String Confusion Objection – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD string in the same round of applications.

Legal Rights Objection – The applied-for gTLD string infringes the existing legal rights of the objector.

~~**Morality and**~~ **[Limited Public Order Interest Objection]¹** – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international ~~principles of~~ law.

Community Objection – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these objection grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see <http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-part-08aug07.htm>.

3.1.2 *Standing to Object*

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by ~~panelists~~ a panel of experts designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection Ground <u>ground</u>	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round
Legal rights	Rightsholders
Morality and Public Order [Limited public interest]	To be determined <u>No limitations on who may file – however, subject to a “quick look” designed for early conclusion of frivolous and/or abusive objections</u>
Community	Established institution <u>associated with a clearly delineated community</u>

3.1.2.1 *String Confusion Objection*

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.

¹ “[Limited Public Interest Objection]” here replaces what was termed a “Morality and Public Order Objection” in previous versions of the Guidebook. This term is subject to community consultation and revision and is used in brackets throughout. The details of this objection are described to provide applicants with an understanding of this objection basis, and may be revised based on further community consultation before the Guidebook is approved by the Board and the New gTLD Program is launched.

- Any gTLD applicant in this application round may ~~also~~ file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied, where string confusion between the two applicants has not already been found in the Initial Evaluation. That is, an applicant does not have standing to object to another application with which it is already in a contention set as a result of the Initial Evaluation.

In the case where an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4), String Contention Procedures). If an objection by ~~a one~~ gTLD applicant to another gTLD ~~applicant application~~ is unsuccessful, the applicants may both move forward in the process without being considered in direct contention with one another.

3.1.2.2 Legal Rights Objection

~~Only a~~ rights holder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming (which may include either registered or unregistered trademarks) are infringed by the ~~applied yes applied~~-for gTLD must be included in the filing.

An intergovernmental organization (IGO) is eligible to file a legal rights objection if it meets the criteria for registration of a .INT domain name²:

- An international treaty between or among national governments must have established the organization; and
- The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting the criteria.

² See also <http://www.iana.org/domains/int/policy/>.

3.1.2.3 ***Morality and [Limited Public Order Interest Objection]***

Standing requirements for morality and public order objections remain under study. In the case of morality and public order objections, it may be appropriate to grant standing only to parties who have recognized authority in the arena of morality or public order, such as governments, or it may be appropriate to make this option available to any interested parties who assert harm due to an applied-for gTLD string.

Anyone may file a [Limited Public Interest Objection]. Due to the inclusive standing base, however, objectors are subject to a “quick look” procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.

A [Limited Public Interest objection] would be manifestly unfounded if it did not fall within one of the categories that have been defined as the grounds for such an objection (see subsection 3.4.3).

A [Limited Public Interest objection] that is manifestly unfounded may also be an abuse of the right to object. An objection may be framed to fall within one of the accepted categories for [Limited Public Interest objections], but other facts may clearly show that the objection is abusive. For example, multiple objections filed by the same or related parties against a single applicant may constitute harassment of the applicant, rather than a legitimate defense of legal norms that are recognized under general principles of international law. An objection that attacks the applicant, rather than the applied-for string, could be an abuse of the right to object.³

³ The jurisprudence of the European Court of Human Rights offers specific examples of how the term “manifestly ill-founded” has been interpreted in disputes relating to human rights. Article 35(3) of the European Convention on Human Rights provides: “The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.” The ECHR renders reasoned decisions on admissibility, pursuant to Article 35 of the Convention. (Its decisions are published on the Court’s website <http://www.echr.coe.int>.) In some cases, the Court briefly states the facts and the law and then announces its decision, without discussion or analysis. E.g., Decision as to the Admissibility of Application No. 34328/96 by Egbert Peree against the Netherlands (1998). In other cases, the Court reviews the facts and the relevant legal rules in detail, providing an analysis to support its conclusion on the admissibility of an application. Examples of such decisions regarding applications alleging violations of Article 10 of the Convention (freedom of expression) include: *Décision sur la recevabilité de la requête no 65831/01 présentée par Roger Garaudy contre la France* (2003); *Décision sur la recevabilité de la requête no 65297/01 présentée par Eduardo Fernando Alves Costa contre le Portugal* (2004).

The jurisprudence of the European Court of Human Rights also provides examples of the abuse of the right of application being sanctioned, in accordance with ECHR Article 35(3). See, for example, *Décision partielle sur la recevabilité de la requête no*

The quick look is the Panel's first task, after its appointment by the DRSP and is a review on the merits of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with Article 21 of the New gTLD Dispute Resolution Procedure.

In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place, and it is currently contemplated that the filing fee paid by the applicant would be refunded, pursuant to Procedure Article 14(e).

3.1.2.4 Community Objection

Established institutions associated with defined clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

It is an established institution – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

It has an ongoing relationship with a defined clearly delineated community ~~that consists of a restricted population~~ – Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;

61164/00 présentée par Gérard Durringer et autres contre la France et de la requête no 18589/02 contre la France (2003).

- Institutional purpose related to the benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

~~3.1.3~~ Options in the Event of Objection

~~Applicants whose applications are the subject of an objection have the following options:~~

~~The applicant can file a response to the objection and enter the dispute resolution process (refer to subsection 3.3); or~~

~~The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.~~

~~If for any reason the applicant does not file a response to an objection, the objector will prevail by default.~~

~~3.2~~ Procedure for Filing an Objection

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

~~3.1.3~~ Dispute Resolution Service Providers

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date. ~~Objections must be filed~~, directly with the appropriate DRSP for each objection ground.

- The International Centre for Dispute Resolution has agreed in principle to administer disputes brought pursuant to string confusion objections.
- The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed in principle to administer disputes brought pursuant to legal rights objections.
- The International Center of Expertise of the International Chamber of Commerce has agreed in principle to administer disputes brought pursuant to

Morality and [Limited Public Order Interest] and
Community Objections.

- ICANN selected DRSPs on the basis of their relevant experience and expertise, as well as their willingness and ability to administer dispute proceedings in the new gTLD Program. The selection process began with a public call for expressions of interest⁴ followed by dialogue with those candidates who responded. The call for expressions of interest specified several criteria for providers, including established services, subject matter expertise, global capacity, and operational capabilities. An important aspect of the selection process was the ability to recruit panelists who will engender the respect of the parties to the dispute.

3.1.4 Options in the Event of Objection

Applicants whose applications are the subject of an objection have the following options:

The applicant can work to reach a settlement with the objector, resulting in withdrawal of the objection or the application;

The applicant can file a response to the objection and enter the dispute resolution process (refer to Section 3.2); or

The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.

If for any reason the applicant does not file a response to an objection, the objector will prevail by default.

3.1.5 Independent Objector

A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of [Limited Public Interest] and Community.

Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection

⁴ See <http://www.icann.org/en/announcements/announcement-21dec07.htm>.

should be filed, he or she will initiate and prosecute the objection in the public interest.

Mandate and Scope - The IO may file objections against “highly objectionable” gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) [Limited Public Interest objections] and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).

The IO may file a [Limited Public Interest objection] against an application even if a Community objection has been filed, and vice versa.

The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.

Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.

The IO may consider public comment when making an independent assessment whether an objection is warranted. The IO will have access to comments from the appropriate time period, running through the Initial Evaluation period until the close of the deadline for the IO to submit an objection.

Selection – The IO will be selected by ICANN, through an open and transparent process, and retained as an independent consultant. The Independent Objector will be an individual with considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

Although recommendations for IO candidates from the community are welcomed, the IO must be and remain independent and unaffiliated with any of the gTLD applicants. The various rules of ethics for judges and international arbitrators provide models for the IO to declare and maintain his/her independence.

The IO’s (renewable) tenure is limited to the time necessary to carry out his/her duties in connection with a single round of gTLD applications.

Budget and Funding – The IO’s budget would comprise two principal elements: (a) salaries and operating expenses, and (b) dispute resolution procedure costs – both of which

should be funded from the proceeds of new gTLD applications.

As an objector in dispute resolution proceedings, the IO is required to pay filing and administrative fees, as well as advance payment of costs, just as all other objectors are required to do. Those payments will be refunded by the DRSP in cases where the IO is the prevailing party.

In addition, the IO will incur various expenses in presenting objections before DRSP panels that will not be refunded, regardless of the outcome. These expenses include the fees and expenses of outside counsel (if retained) and the costs of legal research or factual investigations.

3.2 Filing Procedures

The information included in this section provides a summary of procedures for filing:

- Objections; and
- Responses to objections.

For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.

Note that the rules and procedures of each DRSP specific to each objection ground must also be followed.

- For a String Confusion Objection, the applicable DRSP Rules are the ICDR Supplementary Procedures for ICANN's New gTLD Program. These rules are available in draft form and have been posted along with this module.
- For a Legal Rights Objection, the applicable DRSP Rules are the WIPO Rules for New gTLD Dispute Resolution. These rules are available in draft form and have been posted along with this module.
- For a [Limited Public Interest Objection], the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.⁵

⁵ See <http://www.iccwbo.org/court/expertise/id4379/index.html>

- For a Community Objection, Objection, the applicable DRSP Rules are the Rules for Expertise of the International Chamber of Commerce.⁶

3.2.1 Objection Filing Procedures

The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. ~~These procedures are provided to applicants for reference and are intended to cover dispute resolution procedures generally. Each provider has its own rules and procedures that also must be followed when filing an objection.~~

Should an applicant wish to file a formal objection to another gTLD application, it would follow these same procedures.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date. Objections will not be accepted by the DRSPs after this date.
- All objections must be filed in English.
- Each objection must be filed separately. ~~That is, if any~~An objector ~~wishes~~wishing to object to several applications ~~at the same time, the objector~~ must file ~~a~~a separate objection and pay ~~a~~the accompanying filing ~~fees~~fees for each application that is the subject of an objection. If an objector wishes to object to ~~one~~an application on ~~different grounds~~more than one ground, the objector must file ~~an objection~~separate objections and pay ~~a~~the accompanying filing ~~fees~~fees for each objection ground.
- ~~All objections must be filed with the appropriate DRSP. If an objection is filed with a DRSP other than the DRSP specified for the objection ground, that DRSP will promptly notify the objector of the error. The objector then has 5 calendar days after receiving that notification to file its objection with the appropriate DRSP.~~
- ~~Objections must be filed electronically and all interactions with the DRSPs during the objection process must be conducted online.~~

⁶ *Ibid.*

Each objection filed by an objector must include:

- The name and contact information, ~~including address, phone, and email address, of all parties submitting an objection~~ the objector.
- ~~The~~ A statement of the objector's basis for standing; that is, why the objector believes it ~~has~~ meets the ~~right~~ standing requirements to object.
- A ~~statement~~ description of the ~~nature of~~ basis for the ~~dispute, which should include objection, including:~~
 - A statement giving the specific ground under upon which the objection is being filed.
 - ~~A detailed explanation of how the objector's claim meets the requirements for filing a claim pursuant to that particular ground or standard.~~
 - ~~A detailed explanation of~~ the validity of the objection and why ~~the application~~ it should be ~~denied-upheld~~.
- Copies of any documents that the objector considers to be a basis for the objection.

Objections are limited to ~~2500~~ 5000 words or 20 pages, whichever is less, excluding attachments.

~~The DRSP will use electronic means to deliver copies of all materials filed to the applicant and to all objectors.~~

~~Each applicant and all objectors~~ An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to ~~one another, and to the applicant.~~

ICANN-

~~ICANN- and/or the DRSPs will publish, and regularly update, a document list on its website identifying all objections shortly after the deadline for filing objections has passed (refer to Item 1 above). Objections will not be published before that deadline, as they are filed and ICANN is notified.~~

3.2.2 Objection Filing Fees

At the time an objection is filed, the objector is required to pay a ~~nonrefundable~~ filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid,

the DRSP will dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

3.2.3—Filing a Response to an Objection

3.3.1—Filing Procedures

~~These procedures are intended to cover dispute resolution procedures generally. Each DRSP will have its own rules that also must be followed.~~

Upon notification that ICANN has published the list of all objections filed (refer to subsection 3.2.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, ~~if~~ an applicant ~~wishes to respond~~ responding to several objections, ~~the applicant~~ must file a separate response and pay a the accompanying filing fee to respond to each objection.
- ~~• All responses must be filed with the appropriate DRSP. If a response is filed with a DRSP other than the DRSP specified for the objection ground, that DRSP will promptly notify the applicant of the error. The applicant then has 5 calendar days after receiving the notification to file its objection with the appropriate DRSP.~~
- Responses must be filed electronically ~~and all interactions with the DRSPs during the dispute resolution process must be conducted online.~~

Each response filed by an applicant must include ~~the~~:

- The name and contact information, ~~including address, phone, and email address, of all parties submitting the response.~~ of the applicant.
- Each responding applicant's response must contain a point-by-point ~~confirmation or denial of response to~~ the claims made by ~~each~~ the objector. ~~The applicant also should attach any~~
- Any copies of documents that it considers to be a basis for the response.

- Responses are limited to ~~2500~~5000 words or 20 pages, whichever is less, excluding attachments.
- ~~The DRSP will use electronic means to deliver copies of all materials filed to the applicant and to all objectors.~~
- Each applicant ~~and all objectors~~ must provide copies of all submissions to the DRSP associated with the objection proceedings to ~~one another and to ICANN~~the objector.

3.3.2.4 Response Filing Fees

At the time an applicant files its response, it is required to pay a ~~nonrefundable~~ filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

3.4—3 Objection Processing Overview

The information below provides an overview of the process by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure (included as an attachment to this module).

3.43.1 Preliminary Objection Processing Administrative Review

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's ~~submission of right to submit~~ submit a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for ~~submitting filing~~ submitting an objection.

3.43.2 Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon

consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of ~~circumstances~~ a circumstance in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

3.4.3—Negotiation and,3 Mediation

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in ~~a cooling off period to determine whether mediation aimed at settling the dispute can be resolved by the parties.~~ Each DRSP has ~~panelists~~ experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel ~~to resolve the objection~~ constituted to issue an expert determination in the related dispute.

There are no automatic extensions of time associated with ~~any cooling off period~~ the conduct of negotiations or mediation. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. ~~The~~ Absent exceptional circumstances, the parties must limit their requests for extension to 30 calendar days.

The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

3.3.4.4 Selection and Number of Panelists **Expert Panels**

~~Appropriately~~A panel will consist of ~~appropriately~~ qualified ~~panelists will be~~experts appointed to each proceeding by the designated DRSP.

~~Panelists~~ Experts must be independent of the parties to ~~an~~ ~~objection~~a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing ~~a panelist~~an expert for lack of independence.

There will be one ~~panelist~~expert in proceedings involving a string confusion objection.

There will be one ~~panelist~~expert, ~~or, if all parties agree,~~ ~~three experts~~ with relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.

There will be three ~~panelists~~experts recognized as eminent jurists of international reputation, ~~with expertise in relevant fields as appropriate,~~ in proceedings involving a ~~morality and public order~~Limited Public Interest objection~~].~~

There will be one ~~panelist~~expert in proceedings involving a community objection.

Neither the ~~panelists~~experts, the DRSP, ICANN, nor their respective employees, ~~Board members~~directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

3.43.5 Adjudication

~~At its discretion, the~~The panel ~~appointed by the DRSP~~may request further ~~decide whether the parties shall submit any written statements or in addition to the filed objection and response, and may specify time limits for such submissions.~~

~~In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents from the parties, although such requests will shall be limited and infrequent.~~ In exceptional cases, the panel may require a party to produce additional evidence.

~~To keep costs down and limit delays, the panel will discourage and, if practicable, not permit any document~~

production or other discovery-style requests from the parties.

Without its being requested by the parties, the panelists may appoint experts to Disputes will usually be paid for by the parties, request live or written witness testimony, or request limited exchange of documents.

Any party may request a resolved without an in-person hearing; however, it is within the panel's discretion whether to allow. The panel may decide to hold such a hearing. The presumption is that the panel will render decisions based on written submissions and without a hearing.

If a request for a hearing is granted, videoconferences are to be used if possible. If not possible, then the DRSP panel will select a place for hearing if the parties cannot agree. The panel will determine whether the hearings are to be public or private. Hearings will last no more than one day, except in the most exceptional only in extraordinary circumstances.

Typically, dispute resolution proceedings will be conducted in English, but may be conducted in another language in accordance with the rules of the provider.

3.43.6 Decision Expert Determination

The DRSPs' final decision expert determinations will be in writing and will include:

- A summary of the dispute and findings; and
- -An identification of the prevailing party; and
- The reasoning upon which the decision expert determination is based.

Each DRSP will develop a single format for all final decisions that its panelists render. The DRSP will notify the parties of the decision via email.

ICANN will strongly encourage DRSPs to use reasonable efforts to issue all final decisions within 45 days of the panel appointment date unless, after both parties have completed their initial submissions, the parties jointly request a short postponement of their adjudication date to accommodate negotiation or mediation or to accommodate other aspects of the proceedings, and the panel agrees.

When the panel is composed of three panelists, the decision will be made by a majority of the panelists.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

~~A dispute resolution. The findings of the panel decision will be considered an expert determination, and will be considered by advice that ICANN in making a final decision regarding the success of any application will accept within the dispute resolution process.~~

~~3.43.7~~ Dispute Resolution ~~Fees~~ Costs

Before acceptance of objections, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while ~~morality and public order~~ Limited Public Interest and community objection proceedings will involve hourly rates charged by the panelists.

Within ~~7~~ ten (10) business days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ~~15 calendar~~ ten (10) days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DRSP will sustain the objection and no fees paid by the applicant will be refunded.

After the hearing has taken place and the panel renders its ~~decision~~ expert determination, the DRSP will refund ~~any~~

~~costs paid in the~~ advance payment of costs to the prevailing party.

~~3.5~~ 4 *Dispute Resolution Principles (Standards)*

Each panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified in the paragraphs that follow. The panel may also refer to other relevant rules of international law in connection with the standards.

The objector bears the burden of proof in each case.

The principles outlined below are subject to evolution based on ongoing consultation with DRSPs, legal experts, and the public.

~~3.54.1~~ *String Confusion Objection*

A DRSP panel hearing a string confusion objection will consider whether the applied-for gTLD string is likely to result in string confusion.

String confusion exists where a string so nearly resembles another that it is likely to deceive or cause confusion. For a likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

~~3.54.2~~ *Legal Rights Objection*

In interpreting and giving meaning to GNSO Recommendation 3 ("Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law"), a DRSP panel of experts presiding over a legal rights objection will determine whether the potential use of the applied-for ~~TL~~gTLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector's registered or unregistered trademark or service mark ("mark"), or IGO name or acronym (as identified in the treaty establishing the organization), or unjustifiably impairs the distinctive character or the reputation of the objector's mark or IGO name or acronym, or otherwise creates an impermissible likelihood of confusion between the applied-for ~~TL~~gTLD

and the objector's mark, ~~by considering the following non-exclusive factors:~~ or IGO name or acronym.

In the case where the objection is based on trademark rights, the panel will consider the following non-exclusive factors:

1. Whether the applied-for TLDeTLD is identical or similar, including in appearance, phonetic sound, or meaning, to the objector's existing mark.
2. Whether the objector's acquisition and use of rights in the mark has been bona fide.
3. Whether and to what extent there is recognition in the relevant sector of the public of the sign corresponding to the TLDeTLD, as the mark of the objector, of the applicant or of a third party.
4. Applicant's intent in applying for the TLDeTLD, including whether the applicant, at the time of application for the TLDeTLD, had knowledge of the objector's mark, or could not have reasonably been unaware of that mark, and including whether the applicant has engaged in a pattern of conduct whereby it applied for or operates TLDs or registrations in TLDs which are identical or confusingly similar to the marks of others.
5. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the TLDeTLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise by the objector of its mark rights.
6. Whether the applicant has marks or other intellectual property rights in the sign corresponding to the TLDeTLD, and, if so, whether any acquisition of such a right in the sign, and use of the sign, has been bona fide, and whether the purported or likely use of the TLDeTLD by the applicant is consistent with such acquisition or use.
7. Whether and to what extent the applicant has been commonly known by the sign corresponding to the TLDeTLD, and if so, whether any purported or likely use of the TLDeTLD by the applicant is consistent therewith and bona fide.
8. Whether the applicant's intended ~~use~~ of the TLDeTLD would create a likelihood of confusion with the

objector's mark as to the source, sponsorship, affiliation, or endorsement of the ~~TLD~~gTLD.

~~3.5.3—Morality~~In the case where a legal rights objection has been filed by an IGO, the panel will consider the following non-exclusive factors:

1. Whether the applied-for gTLD is identical or similar, including in appearance, phonetic sound or meaning, to the name or acronym of the objecting IGO;
2. Historical coexistence of the IGO and the applicant's use of a similar name or acronym. Factors considered may include:
 - a. Level of global recognition of both entities;
 - b. Length of time the entities have been in existence;
 - c. ~~Public Order~~historical evidence of their existence, which may include whether the objecting IGO has communicated its name or abbreviation under Article 6~~ter~~ of the Paris Convention for the Protection of Industrial Property.
3. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the TLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise of the objecting IGO's name or acronym;
4. Whether and to what extent the applicant has been commonly known by the sign corresponding to the applied-for gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide; and
5. Whether the applicant's intended use of the applied-for gTLD would create a likelihood of confusion with the objecting IGO's name or acronym as to the source, sponsorship, affiliation, or endorsement of the TLD.

3.4.3 [Limited Public Interest Objection]

This section is under construction. ICANN expects to implement An expert panel hearing a standard [Limited Public Interest objection] will consider whether the applied-for gTLD string is contrary to general principles of international law for morality and public order ~~objections in~~

accordance with international legal principles. Accordingly, ICANN has reviewed legal systems in all ICANN regions. ICANN has also consulted with judges, attorneys, and legal experts in many jurisdictions. The

Examples of instruments containing such general principles guiding ICANN in the establishment of dispute resolution standards are: (1) everyone has the right to freedom of expression; and (2) such freedom include:

- The Universal Declaration of expression may be subject to certain narrowly interpreted exceptions that are necessary to protect other important rights. See Articles 19 and 20 of the Human Rights (UDHR)
- The International Covenant on Civil and Political Rights. ICANN continues to address (ICCPR)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The International Convention on the Elimination of All Forms of Racial Discrimination
- Declaration on the challenge of identifying standards appropriate for Elimination of Violence against Women
- The International Covenant on Economic, Social, and Cultural Rights
- The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- The International Convention on the global namespace Protection of the Rights of all Migrant Workers and Members of their Families
- Slavery Convention
- Convention on the Prevention and Punishment of the Crime of Genocide
- Convention on the Rights of the Child

Note that these are included to serve as examples, rather than an exhaustive list. It should be noted that these instruments vary in their ratification status. Additionally, states may limit the scope of certain provisions through reservations and declarations indicating how they will interpret and apply certain provisions. National laws not

based on principles of international law are not a valid ground for a [Limited Public Interest objection].

Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply.

The grounds upon which an applied-for gTLD string may be considered contrary to generally accepted legal norms relating to morality and public order that are recognized under principles of international law are:

- Incitement to or promotion of violent lawless action;
- Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin;
- Incitement to or promotion of child pornography or other sexual abuse of children; or
- A determination that an applied-for gTLD string would be contrary to specific principles of international law as reflected in relevant international instruments of law.

The panel will conduct their analysis on the basis of the applied-for gTLD string itself. The panel may, if needed, use as additional context the intended purpose of the TLD as stated in the application.

3.54.4 Community Objection

The four tests described here will enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a defined~~clearly delineated~~ community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and
- There is a likelihood of material detriment to the community named by the objector, and the

broader Internet community, if the gTLD application is approved.

Each of these tests is described in further detail below.

Community – The objector must prove that the community expressing opposition can be regarded as a ~~well-defined~~clearly delineated community. A panel could balance a number of factors to determine this, including but not limited to:

- ~~Level~~The level of public recognition of the group as a community at a local and/or global level;
- ~~Level~~The level of formal boundaries around the community and what ~~elements~~persons or entities are considered to form the community;
- ~~How long~~The length of time the community has been in existence;
- ~~How globally distributed is~~The global distribution of the community (~~breadth, level of importance~~)(this may not apply if the community is territorial); and
- ~~How many~~The number of people or entities that make up the community.

If opposition by a number of people/entities is found, but the group ~~claiming opposition~~represented by the objector is not determined to be a ~~distinct~~clearly delineated community, the objection will fail.

Substantial Opposition – The objector must prove substantial opposition within the community it has identified ~~itself as representing~~. A panel could balance a number of factors to determine whether there is substantial opposition, including but not limited to:

- Number of expressions of opposition relative to the composition of the community;
- The representative nature of entities expressing opposition;
- Level of recognized stature or weight among sources of opposition;
- Distribution or diversity among sources of expressions of opposition, including:
 - Regional
 - Subsectors of community

- ◆ Leadership of community
- ◆ Membership of community
- Nature/intensity Historical defense of opposition the community in other contexts; and
- Costs incurred by objector in expressing opposition, including ~~what~~ other channels ~~they~~ the objector may have used to convey ~~their~~ opposition.

If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

Targeting – The objector must prove ~~ana strong~~ association between the applied-for gTLD string and the community expressing opposition represented by the objector. Factors that could be balanced by a panel to determine this include but are not limited to:

- Statements contained in application;
- Other public statements by the applicant;
- Associations by the public.

If opposition by a community is determined, but there is no ~~clear connection~~ strong association between the community and the applied-for gTLD string, the objection will fail.

Detriment – The objector must prove that ~~there is the~~ application creates a likelihood of material detriment to the rights or legitimate interests of its associated community ~~– and the broader Internet community. An allegation of detriment that consists only of the applicant being delegated the string instead of the objector will not be sufficient for a finding of material detriment.~~

Factors that could be used by a panel in making this determination include but are not limited to:

- ~~Damage~~ Nature and extent of damage to the reputation of the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string;
- Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the applicant has not proposed or

does not intend to institute effective security protection for user interests;

- Interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string; ~~and~~
- Dependence of the community represented by the objector on the DNS for its core activities;~~;~~
- ~~Defenses~~ ~~Satisfaction~~ ~~Nature and extent of the standing requirements for filing a Community Objection (refer concrete or economic damage to paragraph 3.1.2.4)~~ ~~the community represented by the applicant~~ ~~objector, and the broader Internet community that would result from the applicant's operation of the applied-for gTLD string; and~~
- Level of certainty that alleged detrimental outcomes would occur.

If opposition by a community is ~~a complete defense~~ ~~determined~~, but there is no likelihood of material detriment to ~~an~~ ~~the~~ community resulting from the applicant's operation of the applied-for gTLD, the objection ~~filed on community grounds~~ will fail.

The objector must meet all four tests in the standard for the objection to prevail.⁷

⁷ After careful consideration of community feedback on this section, the complete defense has been eliminated. However, in order to prevail in a community objection, the objector must prove an elevated level of likely detriment.

Module 4

String Contention Procedures

This module describes situations in which contention over applied-for gTLD strings occurs, and the ~~two~~ methods available to applicants for resolving such contention cases.

4.1 String Contention

String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or
2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in ~~string~~user confusion, called contending strings. If either situation 1 or 2 above occurs, such applications will proceed to contention resolution through either ~~comparative~~community ~~priority~~ evaluation, in certain cases, or through an ~~efficient mechanism for contention resolution, both of which~~auction. Both processes are described in this module. A group of applications for contending strings is referred to as a contention set.

(In this Applicant Guidebook, “similar” means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.)

4.1.1 Identification of Contention Sets

Contention sets are groups of applications containing identical or similar applied-for gTLD strings. ~~(In this RFP, “similar” means strings so similar that it is probable that detrimental user confusion would result if the two similar gTLDs are delegated into the root zone.)~~ Contention sets are identified during Initial Evaluation ~~from~~following review of all applied-for ~~TLD~~gTLD strings ~~by the panel of String~~

Similarity Examiners. ICANN will publish preliminary contention sets ~~by the close of the Initial Evaluation period~~ once the String Similarity review is completed, and will update the contention sets as necessary during the evaluation and dispute resolution stages.

Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant ~~language reference table~~ IDN table. That is, two or more applicants whose applied-for strings or designated variants are variant strings according to an IDN table submitted to ICANN would be considered in direct contention with one another. For example, if one applicant applies for string A and another applies for string B, and strings A and B are variant TLD strings as defined in Module 1, then the two applications are in direct contention.

The String Similarity ~~Examiners~~ Panel will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String ~~Confusion Review~~ Similarity review described in ~~subsection~~ Module 2.1.4 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Two strings are in **direct contention** if they are identical or ~~so similar that there is a probability of user confusion if both were to be delegated as TLDs in the root zone~~ one another. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. ~~Direct~~ The example that follows explains direct and indirect contention is explained in greater detail in the example that follows.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect

contention. C and G both contend with B, but not with one another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.

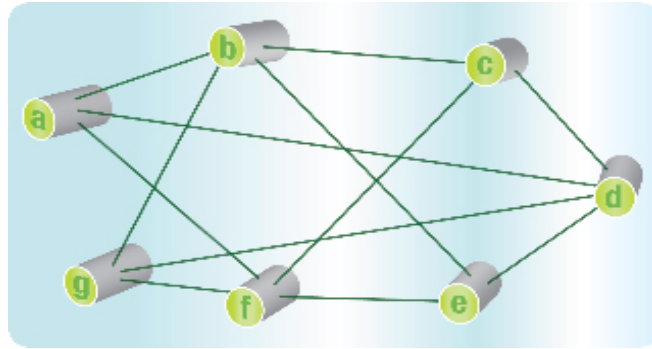


Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.

While preliminary contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process ~~steps~~stages have concluded. This is because any application excluded through those ~~steps~~processes might modify a contention set identified earlier. ~~A contention set may be split it into two sets or it may be eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding.~~

A contention set may be augmented, split into two sets, or eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding. The composition of a contention set may also be modified as some applications may be voluntarily withdrawn throughout the process.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original

contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.

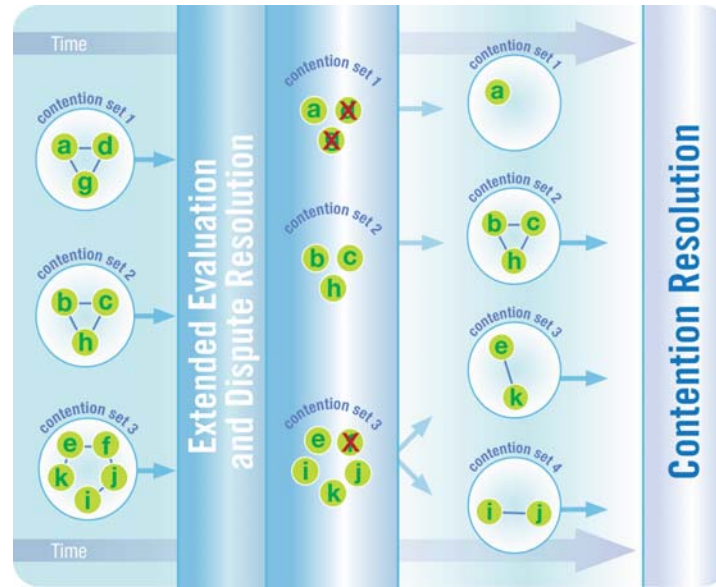


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

The remaining contention cases must then be resolved through comparative community priority evaluation or an efficient mechanism for contention resolution by other means, depending on the circumstances. In this process the string contention resolution stage, ICANN addresses each contention set to achieve an unambiguous resolution.

In their policy advice, the GNSO called for an efficient process to resolve cases of contention where there was no claim of community representation to be used as a factor for resolving the contention. While not settled, candidate means for this process are discussed below and in more detail in a companion paper to the Draft Applicant Guidebook called "Resolving string contention—a complete lifecycle including string contention resolution." (See <http://www.icann.org/en/topics/string-contention-22oct08.pdf>).

As described elsewhere in this guidebook, cases of contention might be resolved by community priority evaluation or an agreement among the parties. Absent that, the last-resort contention resolution mechanism will be an auction.

4.1.2 Impact of String Confusion Dispute Resolution Proceedings on Contention Sets

If an applicant files a string confusion objection against another ~~applicant~~application (refer to Module 3), and the panel ~~does find~~finds that ~~string~~user confusion ~~exists~~is probable (that is, ~~rules~~finds in favor of the objector⁷), the two ~~applicants~~applications will be placed in direct contention with each other. Thus, the outcome of a dispute resolution proceeding based on a string confusion objection would ~~result in~~be a new contention set structure for the relevant applications⁸, augmenting the original contention set.

If an applicant files a string confusion objection against another application, and the panel finds that string confusion does not exist (that is, finds in favor of the responding applicant), the two applications will not be considered in direct contention with one another.

A dispute resolution outcome in the case of a string confusion objection filed by another applicant will not result in removal of an application from a previously established contention set.

4.1.3 Self-Resolution of String Contention

Applicants that are identified as being in contention ~~may elect~~are encouraged to reach a settlement or agreement among themselves ~~whereby one or more applicants withdraws its application~~that resolves the contention. This may occur at any stage of the process, once ICANN publicly posts the applications received and the preliminary contention sets on its website.

~~Applicants may not resolve a case of string contention by changing their applications by, for instance, selecting a new TLD string or creating a joint venture as a means to resolve the contention case.~~

Applicants may resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that applicants may seek to establish joint ventures in their efforts to resolve string contention. However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might

require additional fees or evaluation in a subsequent application round. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the remaining application. Accordingly, new joint ventures must take place in a manner that does not materially change the application, to avoid being subject to re-evaluation.

4.1.4 Possible Contention Resolution Outcomes

AnyAn application with that has successfully completed all previous stages and is no longer part of a contention situation left set due to resolve is allowed to changes in the composition of the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next step-stage.

An application that prevails in a contention resolution procedure, either community priority evaluation or auction, may proceed to the next stage.

In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

~~There may be more than one application that passes contention resolution within a contention set.~~ If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, ~~if~~consider a case where string A is in contention with B, and B is in contention with C, but C is not in contention with A. If A wins the contention resolution procedure, B is eliminated but C can ~~go on~~proceed since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

4.2 ~~Comparative~~Community Priority Evaluation

ComparativeCommunity priority evaluation will only occur if a community-based applicant selects this option.

Community priority evaluation can begin once all applicant applications in the contention set have completed all previous stages of the process.

The comparative community priority evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the comparative community priority evaluation. Each applicant application participating in the comparative community priority evaluation begins with a score of zero.

4.2.1 Eligibility for Comparative Community Priority Evaluation

As described in subsection 1.2.23 of Module 1, all applicants are required to identify whether their application type is:

- ~~• Open; or~~
- Community-based; or
- ~~• Only community-based applicants may elect a comparative evaluation. ICANN policy states that if there is contention for strings, a claim to support a community by one party will be a reason to award priority to that application. If one community-based applicant within a contention set makes this election, all other community-based applicants in the same contention set will be part of the comparative evaluation. Standard.~~

Applicants designating their applications as community-based will be also ~~be~~ asked to respond to a set of questions in the application form ~~that would~~ provide relevant information if a comparative community priority evaluation occurs.

~~Before the comparative~~ Only community-based applicants are eligible to participate in a community priority evaluation begins.

At the start of the contention resolution stage, all community-based applicants ~~in the~~ within remaining contention ~~set may~~ sets will be ~~asked to provide additional information relevant to~~ notified of the ~~comparative~~ opportunity to opt for a community priority evaluation. ~~Additionally, the community-based applicants~~

will be required to pay a Comparative Evaluation Fee (refer to Section 1.5 of Module 1) to participate in the comparative evaluation.

4.2.2—Comparative Evaluation Procedure

Comparative evaluations for each contention set will be performed by a comparative evaluation provider appointed by ICANN to review all via submission of a deposit by a specified date. Only those applications for contending gTLD strings. The panel's charter is to determine whether one of the community-based applications clearly and demonstrably would add more value to which a deposit has been received by the deadline will be scored in the community priority evaluation. Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.

Before the community priority evaluation begins, the Internet's Domain Name System. Open applicants who have elected to participate may be asked to provide additional information relevant to the community priority evaluation.

4.2.2 Community Priority Evaluation Procedure

Community priority evaluations for each eligible contention set will be performed by a community priority panel appointed by ICANN to review these applications. The panel's role is to determine whether any of the community-based applications fulfills the community priority criteria. Standard applicants within the contention set, if any, will not participate in the ~~comparative~~ community priority evaluation.

If ~~no~~ a single community-based application is found to meet the community priority criteria (see subsection 4.2.3 below), that applicant emerges as one that clearly will be declared to prevail in the community priority evaluation and demonstrably adds may proceed. If more value to the namespace than one community-based application is found to meet the criteria, the remaining contention between them will be resolved as follows:

- In the case where the applications are in indirect contention with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage. In this case, applications that are in direct

contention with any of these community-based applications will be eliminated.

- In the case where the applications are in direct contention with one another, these applicants will proceed to an auction. If all the competing parties agree and present a joint request, ICANN may postpone the auction for a three-month period while the parties attempt to reach a settlement before proceeding to auction. This is a one-time option; ICANN will grant no more than one such request for each set of contending applications.

If none of the community-based applications are found to meet the criteria, then all of the parties in the contention set (both ~~open standard~~ and community-based applicants) will proceed to an ~~alternate mechanism for efficient contention resolution-auction.~~

Results of each community priority evaluation will be posted when completed.

Applicants who are eliminated as a result of a community priority evaluation are eligible for a partial refund of the gTLD evaluation fee (see Module 1).

4.2.3 ~~Comparative~~**Community Priority** Evaluation Criteria

A panel appointed by the comparative evaluation providerThe Community Priority Panel will review and score the one or more community-based applicants whoapplications having elected comparativecommunity priority evaluation against thefour criteria as listed below.

The scoring process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). This calls for a holistic approach, taking multiple criteria into account, as reflected in the following tableprocess. The scoring will be performed by a panel and be based on information provided in the application plus other relevant information available (such as public information regarding the community represented). The

panel may also perform independent research, if deemed necessary to reach informed scoring decisions.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below.

The sequence of the criteria reflects the order in which they will be assessed by the panel. The utmost care has been taken to avoid any "double-counting" - any negative aspect found in assessing an application for one criterion should only be counted there and should not affect the assessment for other criteria.

An application must score at least 14 points to prevail in a community priority evaluation. The outcome will be determined according to the procedure described in subsection 4.2.2.

Criterion #1: Community Establishment (0-4 points)

A maximum of 4 points is possible on the Community Establishment criterion:

Criteria		Score				
		4	3	2	1	0
Nexus between Proposed String and Community		String is name or well-known abbreviation of community institution.				
		String is relevant to applicant's area of interest but also has other well known associations.				
Dedicated Registration Policies		No connection.				
		Registration eligibility is strictly limited to members of the pre-established community identified in the application. Registration policies also include name selection and use requirements consistent with the articulated scope and community-based nature of the TLD. Proposed policies include specific enforcement measures including investigation practices, penalties, takedown				
		Registration eligibility is predominantly available to members of the pre-established community identified in the application, and also permits people or groups informally associated with the community to register. Policies include some elements of the above but one or more elements are missing.				
		No dedicated registration policies.				

Criteria	Score		
	procedures and appeal mechanisms:		
Community Establishment			
Community Endorsement	Endorsement by a recognized institution or by member organizations.	Endorsement by some groups with apparent relevance, but also some opposition by groups with apparent relevance.	Assorted endorsements from individuals or groups of unknown relevance — or — no endorsement by any community.

If no applicant scores 11 or more, there is no clear winner. If only one applicant scores 11 or more, that applicant will be declared the winner.

If more than one applicant scores 11 or more, the evaluators will consider what portion of the community is represented by the application. *If one applicant represents a much larger share of the relevant community than another, that will be a basis for awarding priority.*

Following the comparative evaluation, ICANN will review the results and reconfigure the contention set as needed. The same procedure will occur for remaining contention sets involving any community-based application that has elected comparative evaluation. If no community-based applicant that has elected comparative evaluation is left in the contention set, any applications remaining in contention will proceed to a subsequent contention resolution process. Applications not in contention will proceed toward delegation.

4.3 Efficient Mechanism for Contention Resolution

A tie-breaker mechanism will be developed for resolving string contention among the applicants within a contention set, if the contention has not been resolved by other means. Unless the specific conditions for comparative evaluation outlined in Section 4.2 apply, this mechanism will be used to resolve the contention. This mechanism may also be used if no clear winner is identified during the comparative evaluation process.

The GNSO policy recommendations call for an efficient means of resolution. Continued investigation regarding the

availability of alternative methods will guide ICANN's development of this mechanism.

The first efficient means of resolution that will be employed is a settlement arrived at by contending parties. Applicants for identical or similar TLDs can arrive at an accommodation where all in direct contention withdraw except for one. As described earlier, those withdrawing cannot apply for a new string. Nor can contending parties combine to form a new applicant. It is expected that many cases of contention will be resolved in this manner as it will be the most efficient and economical for the contending parties.

Failing to arrive at accommodation of the type described just above, auctions are one means of last resort that is being explored to resolve the contention. The purpose of an auction is to resolve contention in a clear, objective manner.

Auction Proceeds—The purpose of an auction is to resolve contention in a clear, objective manner. It is not to raise revenue. While there may be significant proceeds from auctions in the event they occur, it is important to understand that this in no way the purpose of the auction. The annual budget process sets ICANN's funding and spending limits. ICANN has no authorization to spend beyond the budget. ICANN already has precedent of returning revenue to the community when last year and in 2006 ICANN reduced registration fees from 25¢ to 20¢ over two years as a result of an unforeseen growth in revenue. Proceeds from auctions will be reserved until the uses of the proceeds are determined through a community consultation. The proceeds will not go into ICANN's general expense budget but will be separately earmarked for projects or uses identified by the community. This important aspect of the auction process and its result will be an important part of the communications plan for the new gTLD program.

The new gTLD application fee is designed to be cost/revenue neutral. It factors in costs already forgone, future processing costs and legal expenses that are significant and would be a large drain on the Corporation's established budget.

See further details on the exploration of an auction model in the contention lifecycle at

<http://www.icann.org/en/topics/string-contention-22oct08.pdf>

High ←————→ Low

As measured by:

A. Delineation (2)

<u>2</u>	<u>1</u>	<u>0</u>
<u>Clearly delineated, organized, and pre-existing community.</u>	<u>Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.</u>	<u>Insufficient delineation and pre-existence for a score of 1.</u>

B. Extension (2)

<u>2</u>	<u>1</u>	<u>0</u>
<u>Community of considerable size and longevity.</u>	<u>Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.</u>	<u>Community of neither considerable size nor longevity.</u>

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not considered here, but taken into account when scoring Criterion #2, “Nexus between Proposed String and Community.”)

Criterion 1 Definitions

- “Community” - Usage of the expression “community” has evolved considerably from its Latin origin – “communitas” meaning “fellowship” – while still implying more of cohesion than a mere commonality of interest. Notably, as “community” is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some understanding of the

community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.

- "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.
- "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.
- "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.
- "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.
- "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."
- "Longevity" means that the pursuits of a community are of a lasting, non-transient nature.

Criterion 1 Guidelines

With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such,

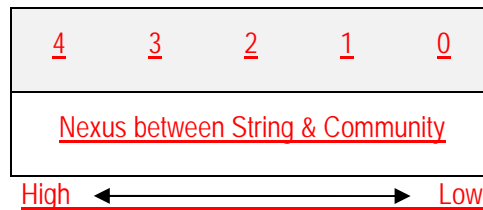
provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both “Delineation” and “Extension.”

With respect to “Delineation,” if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.

With respect to “Extension,” if an application satisfactorily demonstrates both community size and longevity, it scores a 2.

Criterion #2: Nexus between Proposed String and Community (0-4 points)

A maximum of 4 points is possible on the Nexus criterion:



As measured by:

A. Nexus (3)

<u>3</u>	<u>2</u>	<u>0</u>
<u>The string matches the name of the community or is a well known short-form or abbreviation of the community name.</u>	<u>String identifies the community, but does not qualify for a score of 3.</u>	<u>String nexus does not fulfill the requirements for a score of 2.</u>

B. Uniqueness (1)

<u>1</u>	<u>0</u>
<u>String has no other significant meaning beyond identifying the</u>	<u>String does not fulfill the requirement for a score of 1.</u>

1 0

community
described in
the application.

This section evaluates the relevance of the string to the specific community that it claims to represent.

Criterion 2 Definitions

- "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.
- "Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

Criterion 2 Guidelines

With respect to "Nexus," for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.

With respect to "Nexus," for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a globally well-known but local tennis club applying for ".TENNIS") then it would not qualify for a 2.

With respect to "Uniqueness," "significant meaning" relates to the public in general, with consideration of the community language context added.

"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness"

implies a requirement that the string does identify the community, i.e. scores 2 or 3 for "Nexus", in order to be eligible for a score of 1 for "Uniqueness."

It should be noted that "Uniqueness" is only about the meaning of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."

Criterion #3: Registration Policies (0-4 points)

A maximum of 4 points is possible on the Registration Policies criterion:

<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>
<u>Registration Policies</u>				
<u>High</u> ←————→ <u>Low</u>				

As measured by:

A. Eligibility (1)

<u>1</u>	<u>0</u>
<u>Eligibility restricted to community members.</u>	<u>Largely unrestricted approach to eligibility.</u>

B. Name selection (1)

<u>1</u>	<u>0</u>
<u>Policies include name selection rules consistent with the articulated community-based purpose of the applied- for gTLD.</u>	<u>Policies do not fulfill the requirements for a score of 1.</u>

C. Content and use (1)

<u>1</u>	<u>0</u>
<u>Policies include rules for content and use consistent with the articulated community-based purpose of the applied- for gTLD.</u>	<u>Policies do not fulfill the requirements for a score of 1.</u>

D. Enforcement (1)

<u>1</u>	<u>0</u>
<u>Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms.</u>	<u>Policies do not fulfill the requirements for a score of 1.</u>

This section evaluates the applicant's registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

Criterion 3 Definitions

- "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.
- "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.
- "Content and use" means the restrictions stipulated by the registry as to the content provided in and

the use of any second-level domain name in the registry.

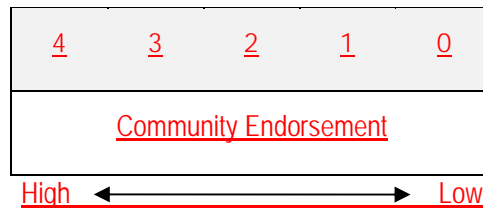
- "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

Criterion 3 Guidelines

With respect to "Eligibility," the limitation to community "members" can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant's physical address is within the boundaries of the location.

With respect to "Name selection," "Content and use," and "Enforcement," scoring of applications against these sub-criteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.

Criterion #4: Community Endorsement (0-4 points)



As measured by:

A. Support (2)

2	1	0
<u>Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community.</u>	<u>Documented support from at least one group with relevance, but insufficient support for a score of 2.</u>	<u>Insufficient proof of support for a score of 1.</u>

B. Opposition (2)

2	1	0
<u>No opposition of relevance.</u>	<u>Relevant opposition from one group of non-negligible size.</u>	<u>Relevant opposition from two or more groups of non-negligible size.</u>

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application, with due regard for the communities implicitly addressed by the string.

Criterion 4 Definitions

- "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community.
- "Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied-for string would be considered relevant.

Criterion 4 Guidelines

With respect to "Support," it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

Also with respect to "Support," the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.

The applicant will score a 1 for "Support" if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on "Support" if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to represent the community. It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.

When scoring "Opposition," previous objections to the application as well as public comments during the same application round will be taken into account and assessed in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular score for "Opposition." To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, or filed for the purpose of obstruction will not be considered relevant.

4.3 Auction: Mechanism of Last Resort

It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string

contention among the applications within a contention set, if the contention has not been resolved by other means.

An auction will not take place to resolve contention in the case where the contending applications are for geographic names (as defined in Module 2). In this case, the applications will be suspended pending resolution by the applicants.

An auction will take place, where contention has not already been resolved, in the case where an application for a geographic name is in a contention set with applications for similar strings that have not been identified as geographic names.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching ~~this stage~~the auction stage. There is a possibility that significant funding will accrue to ICANN as a result of one or more auctions.¹

4.3.1 Auction Procedures

An auction of two or more applications within a contention set is conducted as follows. The auctioneer successively increases the prices associated with applications within the contention set, and the respective applicants indicate their willingness to pay these prices. As the prices rise, applicants will successively choose to exit from the auction. When a sufficient number of applications have been eliminated so that no direct contentions remain (i.e., the remaining applications are no longer in contention with one another

¹ The purpose of an auction is to resolve contention in a clear, objective manner. Proceeds from auctions will be reserved and earmarked until the uses of the proceeds are determined. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Therefore, consideration of a last resort contention mechanism should include the uses of funds. Funds must be earmarked separately and used in a manner that supports directly ICANN's Mission and Core Values and also maintains its not for profit status.

Possible uses include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

Further detail on the potential uses of funds will be provided with updated Applicant Guidebook materials.

and all the relevant strings can be delegated as TLDs), the auction will be deemed to conclude. At the auction's conclusion, the applicants with remaining applications will pay the resulting prices and proceed toward delegation. This procedure is referred to as an "ascending-clock auction."

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. The detailed set of Auction Rules will be available prior to the commencement of any auction proceedings. If any conflict arises between this module and the auction rules, the auction rules will prevail.

For simplicity, this section will describe the situation where a contention set consists of two or more applications for identical strings.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants ("bidders") will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.

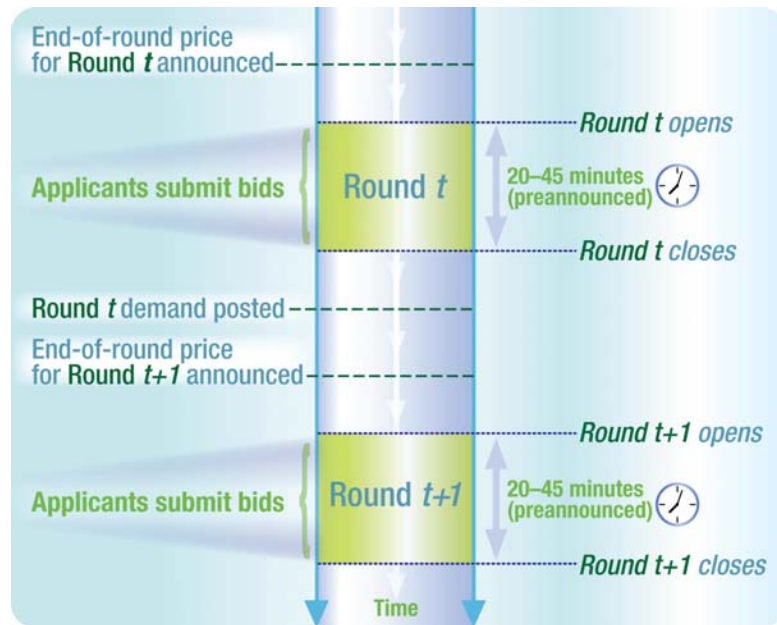


Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.
3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.
4. Bidders may submit their bid or bids at any time during the auction round.
5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.
6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the relevant gTLD strings at prices up to the respective bid amounts, subject to closure of the auction in accordance with

the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.

7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.

- Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.
- If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.
- If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.
- To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.
- No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round. That is, once an application has exited the auction, it may not return.
- If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid

is taken to be an exit bid at the start-of-round price for the current auction round.

8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.

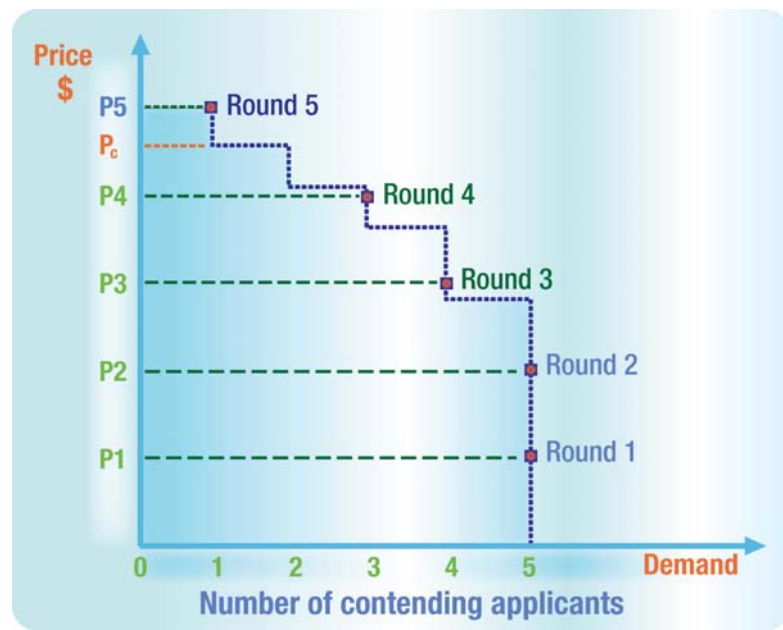


Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price P_1 .
- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_1 . Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five

contending applications remained at P_1 and announces the end-of-round price P_2 .

- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_2 . The auctioneer discloses that five contending applications remained at P_2 and announces the end-of-round price P_3 .
- During Auction round 3, one of the bidders submits an exit bid at slightly below P_3 , while the other four bidders submit bids of at least P_3 . The auctioneer discloses that four contending applications remained at P_3 and announces the end-of-round price P_4 .
- During Auction round 4, one of the bidders submits an exit bid midway between P_3 and P_4 , while the other three remaining bidders submit bids of at least P_4 . The auctioneer discloses that three contending applications remained at P_4 and announces the end-of-auction round price P_5 .
- During Auction round 5, one of the bidders submits an exit bid at slightly above P_4 , and one of the bidders submits an exit bid at P_c midway between P_4 and P_5 . The final bidder submits a bid greater than P_c . Since the aggregate demand at P_5 does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is P_c , as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations will be conducted simultaneously.

4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined. The bidding deposit must be transmitted by wire transfer to a specified bank account specified by ICANN or its auction provider at a major international bank,

to be received in advance of the auction date. The amount of the deposit will determine a bidding limit for each bidder: the bidding deposit will equal 10% of the bidding limit; and the bidder will not be permitted to submit any bid in excess of its bidding limit.

In order to avoid the need for bidders to pre-commit to a particular bidding limit, bidders may be given the option of making a specified deposit that will provide them with unlimited bidding authority for a given application. The amount of the deposit required for unlimited bidding authority will depend on the particular contention set and will be based on an assessment of the possible final prices within the auction.

All deposits from nondefaulting losing bidders will be returned following the close of the auction.

4.3.2 Winning Bid Payments

Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins (i.e., if its application is approved), and to enter into the prescribed registry agreement with ICANN— together with a specified penalty for defaulting on payment of its winning bid or failing to enter into the required registry agreement.

The winning bidder in any auction will be required to pay the full amount of the final price within 20 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

In the event that a bidder anticipates that it would require a longer payment period than 20 business days due to verifiable government-imposed currency restrictions, the bidder may advise ICANN well in advance of the auction and ICANN will consider applying a longer payment period to all bidders within the same contention set.

Any winning bidder for whom the full amount of the final price is not received within 20 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay

the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

Any winning bidder for whom the full amount of the final price is received within 20 business days of the end of an auction retains the obligation to execute the required registry agreement within 90 days of the end of auction. Such winning bidder who does not execute the agreement within 90 days of the end of the auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that execution of the registry agreement is imminent.

4.3.3 Post-Default Procedures

Once declared in default, any winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price. The same default procedures and penalties are in place for any runner-up bidder receiving such an offer.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 20 business days to submit its full payment. A bidder who declines such an offer cannot revert on that statement, has no further obligations in this context and will not be considered in default.

The penalty for defaulting on a winning bid will equal 10% of the defaulting bid.² Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned.

4.4 Contention Resolution and Contract Execution

² If bidders were given the option of making a specified deposit that provided them with unlimited bidding authority for a given application and if the winning bidder utilized this option, then the penalty for defaulting on a winning bid will be the lesser of the following: (1) 10% of the defaulting bid, or (2) the specified deposit amount that provided the bidder with unlimited bidding authority.

An applicant that has been declared the winner of a contention resolution process will proceed by entering into the contract execution phasetep. (Refer to section 5.1 of Module 5.)

If thea winner of the contention resolution procedure has not executed a contract within 90 days of the decision, ICANN has the right to deny that application and extend an offer to the runner-up applicant, if any, to proceed with its application. For example, in a comparative evaluation, the applicant with the second highest score (if equal to or greater than eleven, might be selected to go on to the next step, delegation. (Refer to Module 5.) Similarly, in an efficient mechanism for contention resolution auction, another applicant who would be considered the runner-up applicant might proceed to the toward delegation step. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time.

Module 5

Transition to Delegation

This module describes the final steps required of an applicant for completion of the process, including execution of a registry agreement with ICANN and preparing for delegation of the new gTLD **string** into the root zone.

5.1 Registry Agreement

All applicants that have successfully completed the evaluation process—including, if necessary, the dispute resolution and string contention processes—are required to enter into a registry agreement with ICANN ~~in order to proceed before proceeding~~ to delegation.

~~It is important to note that After the agreement referred to below does not constitute a formal position by close of each stage in the process, ICANN and has not been approved by the ICANN Board of Directors. The agreement is set out here will send a notification to those successful applicants that are eligible for review and community discussion execution of a registry agreement at that time.~~

~~To proceed, applicants will be asked to provide specified information for purposes and as a means to improve of executing the effectiveness registry agreement:~~

- ~~1. Documentation of the applicant's financial instrument (see Specification 8 to the agreement in providing for increased).~~
- ~~2. Confirmation of contact information and signatory to the agreement.~~
- ~~3. Notice of any material changes requested to the terms of the agreement.~~
- ~~4. The applicant must report: (i) any ownership interest it holds in any registrar or reseller of registered names, (ii) if known, any ownership interest that a registrar or reseller of registered names holds in the applicant, and (iii) if the applicant controls, is controlled by, or is under common control with any registrar or reseller of~~

registered names. ICANN retains the right to refer an application to a competition authority prior to entry into the registry agreement if it is determined that the registry-registrar cross-ownership arrangements might raise competition issues. For this purpose "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit additional updated documentation and ~~choice~~ information before entering into the registry agreement.

ICANN will begin processing registry agreements one month after the date of the notification to successful applicants. Requests will be handled in the order the complete information is received.

Generally, the process will include formal approval of the agreement without requiring additional Board review, so long as: the application passed all evaluation criteria; there are no material changes in circumstances; and there are no material changes to the base agreement. There may be other cases where the Board requests review of an application.

Eligible applicants are expected to have executed the registry agreement within nine (9) months of the notification date. Failure to do so may result in loss of eligibility, at ICANN's discretion. An applicant may request an extension of this time period for consumers in a stable, secure DNS up to an additional nine (9) months if it can demonstrate, to ICANN's reasonable satisfaction, that it is working diligently and in good faith toward successfully completing the steps necessary for entry into the registry agreement.

The ~~contract terms registry agreement~~ can be reviewed at <http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf> in the attachment to this module. Certain provisions in the agreement are labeled

as applicable to governmental and intergovernmental entities only. Private entities, even if supported by a government or IGO, would not ordinarily be eligible for these special provisions.

All successful applicants are expected to enter into the agreement substantially as written. ~~The terms of the contract and, in particular, differences with existing registry agreements are explained in a companion paper to the agreement, *Summary of Changes to Base Agreement for New gTLDs*, <http://www.icann.org/en/topics/new-gtld-draft-summary-changes-24oct08-en.pdf>.~~ Applicants may request and negotiate terms by exception; however, this extends the time involved in executing the agreement. In the event that material changes to the agreement are requested, these must first be approved by the ICANN Board of Directors before execution of the agreement.

~~After an applicant has successfully completed the application process, ICANN may conduct a pre-contract review. To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit updated documentation and information before entering into the registry agreement.~~

~~If at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN and submit updated information. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.~~

ICANN's Board of Directors has ultimate responsibility for the New gTLD Program. The Board reserves the right under exceptional circumstances to individually consider an application for a new gTLD to determine whether approval would be in the best interest of the Internet community, for example, as a result of the use of an ICANN accountability mechanism.

5.2 *Pre-Delegation Testing*

~~Following completion of the Board review, each~~Each applicant will be required to complete pre-delegation ~~steps~~technical testing as a prerequisite to ~~entering the IANA process for~~delegation into the root zone. ~~The~~This pre-delegation ~~check~~test must be completed within the time period specified in the registry agreement.

5.2.1—Technical Testing

The purpose of the pre-delegation technical test is to verify that the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described, ~~along with the applicant questions. (Refer to in~~ Module 2-).

The ~~checks are~~ test is also intended to ~~ensure~~ indicate that the applicant can operate the gTLD in a stable and secure manner. All applicants will be tested on a pass/fail basis according to the ~~questions and criteria~~ requirements that follow.

Question		Criteria
1	IDN (Variant) Tables	
	If applicant will be supporting IDNs, was the IDN table attached to the application when originally submitted and does it fulfill IDN and IANA guidelines and requirements?	IDN tables must be developed and provided by the IDN string applicant at the time the application was submitted. The table must fulfill the requirements from the IDN Guidelines as well as the IANA repository requirements in order to be considered valid (see http://iana.org/procedures/idn_repository.html).
2	DNSSEC Keys, Materials	
	If DNSSEC is offered as part of registry services at time of application, can applicant comply with requirements?	Trust anchor for the registry will be published in the IANA Interim Trust Anchor Repository. Validity will be determined by verifying that DNS resolvers that support DNSSEC can successfully retrieve and DNSSEC validate information from that zone when configured with the published trust anchor for the zone.
3	Architecture Load Requirements	
	Has the applicant implemented a network architecture necessary to support load characteristics, as outlined in its application?	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to a network/system diagram of the as-built network system (demonstrating correspondence to documentation in initial application), results of load testing performed by the applicant, and actual performance of the configuration in use for other registries. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.
4	IPv6 for Registrants	
	Does registry support provisioning of IPv6 services for its registrants?	Registry must support provisioning of IPv6 services on behalf of its registrants. This means that registrar systems will allow entry of IPv6 addresses in all relevant address fields, that the SRS system is set up to support the communication of IPv6 addresses, and that registry name servers can be provisioned with IPv6 addresses. Applicant will demonstrate successful provisioning of a test account with IPv6 name server entries.
5	IPv6 Reachability	
	Does registry support access to DNS servers over an IPv6 network?	<i>Note: This requirement is under consideration and the community is urged to provide feedback on this requirement.</i> IANA currently has a minimum set of technical requirements for IPv4 name service. These include two nameservers separated by geography and by network topology, which each serve a consistent set of data, and are reachable from multiple locations across the globe. The registry will meet this same criterion for IPv6, requiring IPv6 transport to their network. Applicant will identify IPv6-reachable name servers that meet these requirements, and

Question		Criteria
		reachability will be verified by ICANN.
6	Escrow Deposit Sample	
	Has the applicant demonstrated the ability to conform to registry escrow requirements? See http://www.icann.org/en/topics/new-gtld-draft-escrow-spec-24oct08-en.pdf .	The applicant will provide a conforming sample of a dummy data deposit showing correct type and formatting of content. The applicant will also provide evidence of an agreement with an escrow provider complying with Part B of the Data Escrow Requirements.
7	System Monitoring	
	Has the applicant implemented the system monitoring described by the applicant in the initial application?	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to: diagrams of monitoring systems (demonstrating correspondence to documentation provided in the application), output of periodic monitoring runs performed by the applicant demonstrating capability claimed in the application, and actual performance of this monitoring set up in use for other registries. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.
8	Registry Continuity Planning	
	Has applicant demonstrated capability to comply with ICANN's Registry Continuity Plan? See http://www.icann.org/registries/failover/icann-registry-failover-plan-15jul08.pdf .	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples include identification of appropriate contact points and evidence of the registry's own continuity plan, and identification of a registry services continuity provider.
9	System Performance Requirements	
	Has applicant demonstrated capability to comply with the performance specifications? See http://www.icann.org/en/topics/new-gtld-draft-performance-spec-24oct08-en.pdf .	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to performance and availability results that demonstrate DNS availability at stated levels for at least one month, and Whois service availability for at least one month. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.

5.2.2 Additional Requirements

At the pre-delegation stage, an applicant must also provide documentary evidence of its ability to fund ongoing basic registry operations for then-existing registrants for a period of three to five years in the event of registry failure, default or until a successor operator can be designated. This obligation can be met by securing a financial instrument such as a bond or letter of credit (i.e., evidence of ability to provide financial security guaranteed by a creditworthy financial institution); contracting with and funding a services provider to extend services; segregating funding; or other means.

The test elements cover both the DNS server operational infrastructure and registry system operations. In many cases

the applicant will perform the test elements as instructed and provide documentation of the results to ICANN to demonstrate satisfactory performance. At ICANN's discretion, aspects of the applicant's self-certification documentation can be audited either on-site at the services delivery point of the registry or elsewhere as determined by ICANN.

5.2.1 Testing Procedures

The applicant may initiate the pre-delegation test by submitting to ICANN the Pre-Delegation form and accompanying documents containing all of the following information:

- All name server names and IPv4/IPv6 addresses to be used in serving the new TLD data;
- If using anycast, the list of names and IPv4/IPv6 unicast addresses allowing the identification of each individual server in the anycast sets;
- If IDN is supported, the complete IDN tables used in the registry system;
- A test zone for the new TLD must be signed at test time and the valid key-set to be used at the time of testing must be provided to ICANN in the documentation, as well as the TLD DNSSEC Policy Statement (DPS);
- The executed agreement between the selected escrow agent and the applicant; and
- Self-certification documentation as described below for each test item.

ICANN will review the material submitted and in some cases perform tests in addition to those conducted by the applicant. After testing, ICANN will assemble a report with the outcome of the tests and provide that report to the applicant.

Any clarification request, additional information request, or other request generated in the process will be highlighted and listed in the report sent to the applicant.

ICANN may request the applicant to complete load tests considering an aggregated load where a single entity is performing registry services for multiple TLDs.

Once an applicant has met all of the pre-delegation testing requirements in 5.2.1 and 5.2.2 above, it is eligible to proceed to request delegation of its applied-for gTLD ~~string~~ by IANA.

If an applicant does not complete the pre-delegation steps within the time period specified in the registry agreement, ICANN reserves the right to terminate the registry agreement.

5.2.2 Test Elements: DNS Infrastructure

The first set of test elements concerns the DNS infrastructure of the new gTLD. In all tests of the DNS infrastructure, all requirements are independent of whether IPv4 or IPv6 is used. All tests shall be done both over IPv4 and IPv6, with reports providing results according to both protocols.

UDP Support -- The DNS infrastructure to which these tests apply comprises the complete set of servers and network infrastructure to be used by the chosen providers to deliver DNS service for the new gTLD to the Internet. The documentation provided by the applicant must include the results from a system performance test indicating available network and server capacity and an estimate of expected capacity during normal operation to ensure stable service as well as to adequately address Distributed Denial of Service (DDoS) attacks.

Self-certification documentation shall include data on load capacity, latency and network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries responded against an increasing number of queries per second generated from local (to the servers) traffic generators. The table shall include at least 20 data points and loads of UDP-based queries that will cause up to 10% query loss against a randomly selected subset of servers within the applicant's DNS infrastructure. Responses must either contain zone data or be NXDOMAIN or NODATA responses to be considered valid.

Query latency shall be reported in milliseconds as measured by DNS probes located just outside the border

routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing information on the transit and peering arrangements for the DNS server locations, listing the AS numbers of the transit providers or peers at each point of presence and available bandwidth at those points of presence.

TCP support -- TCP transport service for DNS queries and responses must be enabled and provisioned for expected load. ICANN will review the capacity self-certification documentation provided by the applicant and will perform TCP reachability and transaction capability tests across a randomly selected subset of the name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Self-certification documentation shall include data on load capacity, latency and external network reachability.

Load capacity shall be reported using a table, and a corresponding graph, showing percentage of queries that generated a valid (zone data, NODATA, or NXDOMAIN) response against an increasing number of queries per second generated from local (to the name servers) traffic generators. The table shall include at least 20 data points and loads that will cause up to 10% query loss (either due to connection timeout or connection reset) against a randomly selected subset of servers within the applicant's DNS infrastructure.

Query latency will be reported in milliseconds as measured by DNS probes located just outside the border routers of the physical network hosting the name servers, from a network topology point of view.

Reachability will be documented by providing records of TCP-based DNS queries from nodes external to the network hosting the servers. These locations may be the same as those used for measuring latency above.

DNSSEC support -- Applicant must demonstrate support for EDNS(0) in its server infrastructure, the ability to return correct DNSSEC-related resource records such as DNSKEY, RRSIG, and NSEC/NSEC3 for the signed zone, and the ability to accept and publish DS resource records from second-level domain administrators. In particular, the

applicant must demonstrate its ability to support the full life cycle of KSK and ZSK keys. ICANN will review the self-certification materials as well as test the reachability, response sizes, and DNS transaction capacity for DNS queries using the EDNS(0) protocol extension with the "DNSSEC OK" bit set for a randomly selected subset of all name servers within the applicant's DNS infrastructure. In case of use of anycast, each individual server in each anycast set will be tested.

Load capacity, query latency, and reachability shall be documented as for UDP and TCP above.

5.2.3— Test Elements: Registry Systems

As documented in the registry agreement, registries must provide support for EPP within their Shared Registration System, and provide Whois service both via port 43 and a web interface, in addition to support for the DNS. This section details the requirements for testing these registry systems.

System performance -- The registry system must scale to meet the performance requirements described in Specification 6 of the registry agreement and ICANN will require self-certification of compliance. ICANN will review the self-certification documentation provided by the applicant to verify adherence to these minimum requirements.

Whois support -- Applicant must provision Whois services for the anticipated load. ICANN will verify that Whois data is accessible over IPv4 and IPv6 via both TCP port 43 and via a web interface and review self-certification documentation regarding Whois transaction capacity. Response format according to Specification 4 of the registry agreement and access to Whois (both port 43 and via web) will be tested by ICANN remotely from various points on the Internet over both IPv4 and IPv6.

Self-certification documents shall describe the maximum number of queries per second successfully handled by both the port 43 servers as well as the web interface, together with an applicant-provided load expectation.

Additionally, a description of deployed control functions to detect and mitigate data mining of the Whois database shall be documented.

EPP Support -- As part of a shared registration service, applicant must provision EPP services for the anticipated load. ICANN will verify conformance to appropriate RFCs (including EPP extensions for DNSSEC). ICANN will also review self-certification documentation regarding EPP transaction capacity.

Documentation shall provide a maximum Transaction per Second rate for the EPP interface with 10 data points corresponding to registry database sizes from 0 (empty) to the expected size after one year of operation, as determined by applicant.

Documentation shall also describe measures taken to handle load during initial registry operations, such as a land-rush period.

IPv6 support -- The ability of the registry to support registrars adding, changing, and removing IPv6 DNS records supplied by registrants will be tested by ICANN. If the registry supports EPP access via IPv6, this will be tested by ICANN remotely from various points on the Internet.

DNSSEC support -- ICANN will review the ability of the registry to support registrars adding, changing, and removing DNSSEC-related resource records as well as the registry's overall key management procedures. In particular, the applicant must demonstrate its ability to support the full life cycle of key changes for child domains. Inter-operation of the applicant's secure communication channels with the IANA for trust anchor material exchange will be verified.

The practice and policy document (also known as the DNSSEC Policy Statement or DPS), describing key material storage, access and usage for its own keys and the registrants' trust anchor material, is also reviewed as part of this step.

IDN support -- ICANN will verify the complete IDN table(s) used in the registry system. The table(s) must comply with the guidelines in <http://iana.org/procedures/idn-repository.html>.

Requirements related to IDN for Whois are being developed. After these requirements are developed, prospective registries will be expected to comply with published IDN-related Whois requirements as part of pre-delegation testing.

Escrow deposit -- The applicant-provided samples of data deposit that include both a full and an incremental deposit showing correct type and formatting of content will be reviewed. Special attention will be given to the agreement with the escrow provider to ensure that escrowed data can be released within 24 hours should it be necessary. ICANN may, at its option, ask an independent third party to demonstrate the reconstitutability of the registry from escrowed data. ICANN may elect to test the data release process with the escrow agent.

5.3 *Delegation Process*

Upon notice of successful completion of the ICANN pre-delegation testing, applicants may initiate the process for delegation of the new gTLD into the root zone database.

This will include provision of additional information and completion of additional technical steps required for delegation. Information about the delegation process is available at <http://iana.org/domains/root/>.

5.4 *Ongoing Operations*

An applicant that is successfully delegated a gTLD will become a "Registry Operator." In being delegated the role of operating part of the Internet's domain name system, the applicant will be assuming a number of significant responsibilities. ICANN will hold all new gTLD operators accountable for the performance of their obligations under the registry agreement, and it is important that all applicants understand these responsibilities.

5.4.1 *What is Expected of a Registry Operator*

The registry agreement defines the obligations of gTLD registry operators. A breach of the registry operator's obligations may result in ICANN compliance actions up to and including termination of the registry agreement. Prospective applicants are encouraged to review the following brief description of some of these responsibilities.

Note that this is a non-exhaustive list provided to potential applicants as an introduction to the responsibilities of a registry operator. For the complete and authoritative text, please refer to the registry agreement.

A registry operator is obligated to:

Operate the TLD in a stable and secure manner. The registry operator is responsible for the entire technical operation of the TLD. As noted in RFC 1591¹:

"The designated manager must do a satisfactory job of operating the DNS service for the domain. That is, the actual management of the assigning of domain names, delegating subdomains and operating nameservers must be done with technical competence. This includes keeping the central IR² (in the case of top-level domains) or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience."

The registry operator is required to comply with relevant technical standards in the form of RFCs and other guidelines. Additionally, the registry operator must meet performance specifications in areas such as system downtime and system response times (see Specification 6 of the registry agreement).

Comply with consensus policies and temporary policies. gTLD registry operators are required to comply with consensus policies. Consensus policies may relate to a range of topics such as issues affecting interoperability of the DNS, registry functional and performance specifications, database security and stability, or resolution of disputes over registration of domain names.

To be adopted as a consensus policy, a policy must be developed by the Generic Names Supporting Organization (GNSO)³ following the process in Annex A of the ICANN Bylaws.⁴ The policy development process involves deliberation and collaboration by the various stakeholder groups participating in the process, with multiple

¹ See <http://www.rfc-editor.org/rfc/rfc1591.txt>

² IR is a historical reference to "Internet Registry," a function now performed by ICANN.

³ <http://gnso.icann.org>

⁴ <http://www.icann.org/en/general/bylaws.htm#AnnexA>

opportunities for input and comment by the public, and can take significant time.

Examples of existing consensus policies are the Inter-Registrar Transfer Policy (governing transfers of domain names between registrars), and the Registry Services Evaluation Policy (establishing a review of proposed new registry services for security and stability or competition concerns), although there are several more, as found at <http://www.icann.org/en/general/consensus-policies.htm>.

gTLD registry operators are obligated to comply with both existing consensus policies and those that are developed in the future. Once a consensus policy has been formally adopted, ICANN will provide gTLD registry operators with notice of the requirement to implement the new policy and the effective date.

In addition, the ICANN Board may, when required by circumstances, establish a temporary policy necessary to maintain the stability or security of registry services or the DNS. In such a case, all gTLD registry operators will be required to comply with the temporary policy for the designated period of time.

For more information, see Specification 1 of the registry agreement.

Implement start-up rights protection measures. The registry operator must implement, at a minimum, either a Sunrise period or a Trademark Claims service during the start-up phases for registration in the TLD. These mechanisms will be supported by the established Trademark Clearinghouse as indicated by ICANN.

The Sunrise period allows eligible rightsholders an early opportunity to register names in the TLD.

The Trademark Claims service provides notice to potential registrants of existing trademark rights, as well as notice to rightsholders of relevant names registered. Registry operators may continue offering the Trademark Claims service after the relevant start-up phases have concluded.

For more information, see Specification 7 of the registry agreement and the Trademark Clearinghouse model accompanying this module.

Implement post-launch rights protection measures. The registry operator is required to implement decisions made under the Uniform Rapid Suspension (URS) procedure, including suspension of specific domain names within the registry. The registry operator is also required to comply with and implement decisions made according to the Trademark Post-Delegation Dispute Resolution Policy (PDDRP).

The required measures are described fully in the URS and PDDRP procedures accompanying this module. Registry operators may introduce additional rights protection measures relevant to the particular gTLD.

Implement measures for protection of country and territory names in the new gTLD. All new gTLD registry operators are required to provide certain minimum protections for country and territory names, including an initial reservation requirement and establishment of applicable rules and procedures for release of these names. Registry operators are encouraged to implement measures for protection of geographical names in addition to those required by the agreement, according to the needs and interests of each gTLD's particular circumstances. (See Specification 5 of the registry agreement).

Pay recurring fees to ICANN. In addition to supporting expenditures made to accomplish the objectives set out in ICANN's mission statement, these funds enable the support required for new gTLDs, including: contractual compliance, registry liaison, increased registrar accreditations, and other registry support activities. The fees include both a fixed component (USD 25,000 annually) and, once the TLD has passed a threshold size, a variable fee based on transaction volume. See Article 6 of the registry agreement.

Regularly deposit data into escrow. This serves an important role in registrant protection and continuity for certain instances where the registry or one aspect of the registry operations experiences a system failure or loss of data. (See Specification 2 of the registry agreement.)

Deliver monthly reports in a timely manner. A registry operator must submit a report to ICANN on a monthly basis. The report includes registrar transactions for the month and is used by ICANN for calculation of registrar fees. (See Specification 3 of the registry agreement.)

Provide Whois service. A registry operator must provide a publicly available Whois service for registered domain names in the TLD. (See Specification 4 of the registry agreement.)

Maintain partnerships with ICANN-accredited registrars. A registry operator creates a Registry-Registrar Agreement (RRA) to define requirements for its registrars. This must include certain terms that are specified in the Registry Agreement, and may include additional terms specific to the TLD. A registry operator must provide non-discriminatory access to its registry services to all ICANN-accredited registrars with whom it has entered into an RRA, and who are in compliance with the requirements. This includes providing advance notice of pricing changes to all registrars, in compliance with the time frames specified in the agreement. (See Article 2 of the registry agreement.)

Maintain an abuse point of contact. A registry operator must maintain and publish on its website a single point of contact responsible for addressing matters requiring expedited attention and providing a timely response to abuse complaints concerning all names registered in the TLD through all registrars of record, including those involving a reseller. (See Specification 6 of the registry agreement.)

Cooperate with contractual compliance audits. To maintain a level playing field and a consistent operating environment, ICANN staff performs periodic audits to assess contractual compliance and address any resulting problems. A registry operator must provide documents and information requested by ICANN that are necessary to perform such audits. (See Article 2 of the registry agreement.)

Maintain a Continued Operations Instrument. A registry operator must, at the time of the agreement, have in place a continued operations instrument sufficient to fund basic registry operations for a period of three (3) years. This requirement remains in place for five (5) years after delegation of the TLD, after which time the registry operator is no longer required to maintain the continued operations instrument. (See Specification 8 to the registry agreement.)

Maintain community-based policies and procedures. If the registry operator designated its application as community-based at the time of the application, the registry operator has requirements in its registry agreement to maintain the

community-based policies and procedures it specified in its application. The registry operator is bound by the Registry Restrictions Dispute Resolution Procedure with respect to disputes regarding execution of its community-based policies and procedures. (See Article 2 to the registry agreement.)

Have continuity and transition plans in place. This includes performing failover testing on a regular basis. In the event that a transition to a new registry operator becomes necessary, the registry operator is expected to cooperate by consulting with ICANN on the appropriate successor, providing the data required to enable a smooth transition, and complying with the applicable registry transition procedures. (See Articles 2 and 4 of the registry agreement.)

Make TLD zone files available via a standardized process. This includes provision of access to the registry's zone file to credentialed users, according to established access, file, and format standards. The registry operator will enter into a standardized form of agreement with zone file users and will accept credential information for users via a clearinghouse. (See Specification 4 of the registry agreement.)

Implement DNSSEC. The registry operator is required to sign the TLD zone files implementing Domain Name System Security Extensions (DNSSEC) in accordance with the relevant technical standards. The registry must accept public key material from registrars for domain names registered in the TLD, and publish a DNSSEC Policy Statement describing key material storage, access, and usage for the registry's keys and the registrants' trust anchor material. (See Specification 6 of the registry agreement.)

5.4.2 What is Expected of ICANN

ICANN will continue to provide support for gTLD registry operators as they launch and maintain registry operations. ICANN's gTLD registry liaison function provides a point of contact for gTLD registry operators for assistance on a continuing basis.

~~The registry agreement contains a provision for ICANN to~~
~~ICANN's contractual compliance function will perform~~
audits on a regular basis to ensure that ~~the~~gTLD registry operators remain in compliance with agreement

obligations, as well as investigate any complaints from the community regarding the registry operator's adherence to its contractual obligations. See <http://www.icann.org/en/compliance/> for more information on current contractual compliance activities.

ICANN's Bylaws require ICANN to act in an open and transparent manner, and to provide equitable treatment among registry operators. ICANN is responsible for maintaining the security and stability of the global Internet, and looks forward to a constructive and cooperative relationship with future gTLD registry operators in furtherance of this goal.

Module 6

Top-Level Domain Application – Terms and Conditions

By submitting this application through ICANN's online interface for a generic Top Level Domain (gTLD) (this application), applicant (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on its behalf) agrees to the following terms and conditions (these terms and conditions) without modification. Applicant understands and agrees that these terms and conditions are binding on applicant and are a material part of this application.

1. Applicant warrants that the statements and representations contained in the application (including any documents submitted and oral statements made and confirmed in writing in connection with the application) are true and accurate and complete in all material respects, and that ICANN may rely on those statements and representations fully in evaluating this application. Applicant acknowledges that any material misstatement or misrepresentation (or omission of material information) ~~will reflect negatively on this application and~~ may cause ICANN and the evaluators to reject the application ~~without a refund of any fees paid by Applicant. Applicant agrees to notify ICANN in writing of any change in circumstances that would render any information provided in the application false or misleading.~~
2. Applicant warrants that it has the requisite organizational power and authority to make this application on behalf of applicant, and is able to make all agreements, representations, waivers, and understandings stated in these terms and conditions and to enter into the form of registry agreement as posted with these terms and conditions.
3. Applicant acknowledges and agrees that ICANN has the right to ~~reject~~ determine not to proceed with any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will

~~Draft – for discussion only – please refer to the disclaimer on the title page of this Draft Applicant Guidebook.~~

be created. The decision to ~~proceed with~~ review and ~~consideration of~~ consider an application to establish one or more gTLDs is entirely at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering ~~for a gTLD~~ under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.

4. Applicant agrees to pay all fees that are associated with this application. These fees include the evaluation fee (which is to be paid in conjunction with the submission of this application), and any fees associated with the progress of the application to the extended evaluation stages of the review and consideration process with respect to the application, including any and all fees as may be required in conjunction with the dispute resolution process as set forth in the application. Applicant acknowledges that the initial fee due upon submission of the application is only to obtain consideration of an application. ICANN makes no assurances that an application will be approved or will result in the delegation of a gTLD proposed in an application. Applicant acknowledges that if it fails to pay fees within the designated time period at any stage of the application review and consideration process, applicant will forfeit any fees paid up to that point and the application will be cancelled. Except as expressly provided in this Application Guidebook, ICANN is not obligated to reimburse an applicant for or to return any fees paid to ICANN in connection with the application process.
5. Applicant shall indemnify, defend, and hold harmless ICANN (including its affiliates, subsidiaries, directors, officers, employees, consultants, evaluators, and agents, collectively the ICANN Affiliated Parties) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including legal fees and expenses, arising out of or relating to: (a) ICANN's consideration of the application, and any approval or rejection of the application; and/or (b) ICANN's reliance on

information provided by applicant in the application.

6. Applicant hereby releases ICANN and the ICANN Affiliated Parties from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN or any ICANN Affiliated Party in connection with ICANN's review of this application, investigation or verification, any characterization or description of applicant or the information in this application, or the decision by ICANN to recommend, or not to recommend, the approval of applicant's gTLD application. APPLICANT AGREES NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION, AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED IN COURT OR ANY OTHER JUDICIAL FOR A ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES AND ACCEPTS THAT APPLICANT'S NONENTITLEMENT TO PURSUE ANY RIGHTS, REMEDIES, OR LEGAL CLAIMS AGAINST ICANN OR THE ICANN AFFILIATED PARTIES IN COURT OR ANY OTHER JUDICIAL FORA WITH RESPECT TO THE APPLICATION SHALL MEAN THAT APPLICANT WILL FOREGO ANY RECOVERY OF ANY APPLICATION FEES, MONIES INVESTED IN BUSINESS INFRASTRUCTURE OR OTHER START-UP COSTS AND ANY AND ALL PROFITS THAT APPLICANT MAY EXPECT TO REALIZE FROM THE OPERATION OF A REGISTRY FOR THE TLD.
7. Applicant hereby authorizes ICANN to publish on ICANN's website, and to disclose or publicize in any other manner, any materials submitted to, or obtained or generated by, ICANN and the ICANN Affiliated Parties in connection with the application, including evaluations, analyses and any other materials prepared in connection with the evaluation of the application; provided, however, that information will not be disclosed or published to the extent that ~~the application specifically identifies this Applicant Guidebook expressly states that~~ such information as will be kept confidential. ~~A general statement as the confidentiality of the~~

~~Draft — for discussion only — please refer to the disclaimer on the title page of this Draft Applicant Guidebook.~~



~~application will not be sufficient for these purposes, except as required by law or judicial process.~~

Except for information ~~that ICANN determines to treat as~~ afforded confidential treatment, applicant understands and acknowledges that ICANN does not and will not keep the remaining portion of the application or materials submitted with the application confidential.

8. Applicant certifies that it has obtained permission for the posting of any personally identifying information included in this application or materials submitted with this application. Applicant acknowledges that the information that ICANN posts may remain in the public domain in perpetuity, at ICANN's discretion.
9. Applicant gives ICANN permission to use applicant's name ~~and/or logo~~ in ICANN's public announcements (including informational web pages) relating to ~~top-level domain space expansion~~ Applicant's application and any action taken by ICANN related thereto.
10. Applicant understands and agrees that it will acquire rights in connection with a gTLD only in the event that it enters into a registry agreement with ICANN, and that applicant's rights in connection with such gTLD will be limited to those expressly stated in the registry agreement. In the event ICANN agrees to recommend the approval of the application for applicant's proposed gTLD, applicant agrees to enter into the registry agreement with ICANN in the form published in connection with the application materials. (Note: ICANN reserves the right to make reasonable updates and changes to this proposed draft agreement during the course of the application process, including as the possible result of new policies that might be adopted during the course of the application process). Applicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application.
11. Applicant authorizes ICANN to:

- a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;
- b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession, provided, however, that ICANN will use reasonable efforts to ensure that such persons maintain the confidentiality of information in the application that this Applicant Guidebook expressly states will be kept confidential.

12. For the convenience of applicants around the world, the application materials published by ICANN in the English language have been translated into certain other languages frequently used around the world. ~~applicant~~Applicant recognizes that the English language version of the application materials (of which these terms and conditions is a part) is the version that binds the parties, that such translations are non-official interpretations and may not be relied upon as accurate in all respects, and that in the event of any conflict between the translated versions of the application materials and the English language version, the English language version controls.